

# ***NORTH CAROLINA REGISTER***

**VOLUME 36 • ISSUE 23 • Pages 1816 – 1927**

**June 1, 2022**

## **I. EXECUTIVE ORDERS**

Executive Order No. 257 ..... 1816 – 1820

## **II. PROPOSED RULES**

### **Administration, Department of**

Department..... 1821

### **Health and Human Services, Department of**

Public Health, Commission for ..... 1822 – 1823

### **Environmental Quality, Department of**

Public Health, Commission for ..... 1823 – 1835

### **State Treasurer, Office of**

Teachers' and State Employees' Retirement System Board of Trustees/

Local Governmental Employees' Retirement

System Board of Trustees ..... 1835 – 1842

Teachers' and State Employees' Retirement System Board of Trustees ..... 1842 – 1850

Local Governmental Employees' Retirement System Board of Trustees..... 1850 – 1857

## **III. APPROVED RULES..... 1858 – 1914**

### **Agriculture and Consumer Services, Department of**

Agriculture, Board of

### **Health and Human Services, Department of**

Health Benefits, Division of

### **Labor, Department of**

Department

### **Public Safety, Department of**

Alcoholic Beverage Control Commission

### **Environmental Quality, Department of**

Department

Environmental Management Commission

Marine Fisheries Commission

Wildlife Resources Commission

### **Occupational Licensing Boards and Commissions**

Medical Board

Pharmacy, Board of

## **IV. RULES REVIEW COMMISSION ..... 1915 – 1927**

### **PUBLISHED BY**

*The Office of Administrative Hearings*

*Rules Division*

*1711 New Hope Church Road*

*Raleigh, NC 27609*

*Telephone 984-236-1850*

*Fax 984-236-1947*

*Donald R. van der Vaart, Director*

*Ashley B. Snyder, Codifier of Rules*

*Dana McGhee, Publications Coordinator*

*Cathy Matthews-Thayer, Editorial Assistant*

## **Contact List for Rulemaking Questions or Concerns**

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address but are not inclusive.

### **Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.**

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Ashley B. Snyder, Codifier of Rules

ashley.snyder@oah.nc.gov

984-236-1941

Dana McGhee, Publications Coordinator

dana.mcghee@oah.nc.gov

984-236-1937

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

984-236-1901

### **Rule Review and Legal Issues**

Rules Review Commission

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Brian Liebman, Commission Counsel

brian.liebman@oah.nc.gov

984-236-1948

Lawrence Duke, Commission Counsel

lawrence.duke@oah.nc.gov

984-236-1938

William W. Peaslee, Commission Counsel

bill.peaslee@oah.nc.gov

984-236-1939

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

984-236-1940

Julie Brincefield, Administrative Assistant

julie.brincefield@oah.nc.gov

984-236-1935

### **Fiscal Notes & Economic Analysis**

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Carrie Hollis, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0689

NC Association of County Commissioners

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

919-715-2893

amy.bason@ncacc.org

NC League of Municipalities

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

919-715-2925

mjackson@nclm.org

### **Legislative Process Concerning Rulemaking**

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

919-733-2578

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Chris Saunders, Staff Attorney

Aaron McGlothlin, Staff Attorney

**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2022 – December 2022

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
36:13	01/03/22	12/08/21	01/18/22	03/04/22	03/21/22	04/21/2022	05/01/22	09/30/22
36:14	01/18/22	12/22/21	02/02/22	03/21/22	04/20/22	05/19/2022	06/01/22	10/15/22
36:15	02/01/22	01/10/22	02/16/22	04/04/22	04/20/22	05/19/2022	06/01/22	10/29/22
36:16	02/15/22	01/25/22	03/02/22	04/18/22	04/20/22	05/19/2022	06/01/22	11/12/22
36:17	03/01/22	02/08/22	03/16/22	05/02/22	05/20/22	06/16/2022	07/01/22	11/26/22
36:18	03/15/22	02/22/22	03/30/22	05/16/22	05/20/22	06/16/2022	07/01/22	12/10/22
36:19	04/01/22	03/11/22	04/16/22	05/31/22	06/20/22	07/21/2022	08/01/22	12/27/22
36:20	04/18/22	03/25/22	05/03/22	06/17/22	06/20/22	07/21/2022	08/01/22	01/13/23
36:21	05/02/22	04/08/22	05/17/22	07/01/22	07/20/22	08/18/2022	09/01/22	01/27/23
36:22	05/16/22	04/25/22	05/31/22	07/15/22	07/20/22	08/18/2022	09/01/22	02/10/23
36:23	06/01/22	05/10/22	06/16/22	08/01/22	08/22/22	09/15/2022	10/01/22	02/26/23
36:24	06/15/22	05/24/22	06/30/22	08/15/22	08/22/22	09/15/2022	10/01/22	03/12/23
37:01	07/01/22	06/10/22	07/16/22	08/30/22	09/20/22	10/20/2022	11/01/22	03/28/23
37:02	07/15/22	06/23/22	07/30/22	09/13/22	09/20/22	10/20/2022	11/01/22	04/11/23
37:03	08/01/22	07/11/22	08/16/22	09/30/22	10/20/22	11/17/2022	12/01/22	04/28/23
37:04	08/15/22	07/25/22	08/30/22	10/14/22	10/20/22	11/17/2022	12/01/22	05/12/23
37:05	09/01/22	08/11/22	09/16/22	10/31/22	11/21/22	12/15/2022	01/01/23	05/29/23
37:06	09/15/22	08/24/22	09/30/22	11/14/22	11/21/22	12/15/2022	01/01/23	06/12/23
37:07	10/03/22	09/12/22	10/18/22	12/02/22	12/20/22	01/19/2023	02/01/23	06/30/23
37:08	10/17/22	09/26/22	11/01/22	12/16/22	12/20/22	01/19/2023	02/01/23	07/14/23
37:09	11/01/22	10/11/22	11/16/22	01/03/23	01/20/23	02/16/2023	03/01/23	07/29/23
37:10	11/15/22	10/24/22	11/30/22	01/17/23	01/20/23	02/16/2023	03/01/23	08/12/23
37:11	12/01/22	11/07/22	12/16/22	01/30/23	02/20/23	03/16/2023	04/01/23	08/28/23
37:12	12/15/22	11/22/22	12/30/22	02/13/23	02/20/23	03/16/2023	04/01/23	09/11/23

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

## **EXPLANATION OF THE PUBLICATION SCHEDULE**

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

### **GENERAL**

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

### **FILING DEADLINES**

**ISSUE DATE:** The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

**LAST DAY FOR FILING:** The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

### **NOTICE OF TEXT**

**EARLIEST DATE FOR PUBLIC HEARING:** The hearing date shall be at least 15 days after the date a notice of the hearing is published.

**END OF REQUIRED COMMENT PERIOD**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

**DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:** The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.



# State of North Carolina

**ROY COOPER**  
GOVERNOR

May 4, 2022

## EXECUTIVE ORDER NO. 257

### ESTABLISHING AN INCENTIVE PROGRAM TO ENCOURAGE STATE EMPLOYEES TO RECEIVE THEIR COVID-19 BOOSTER SHOT

**WHEREAS**, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

**WHEREAS**, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

**WHEREAS**, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

**WHEREAS**, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-177, 180-181, 183-185, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224-225, 228-232, 234, 236, 238-240, 244-245, 252-253, and 256; and

**WHEREAS**, COVID-19 continues to infect North Carolinians every day, and a State of Emergency remains in place for the purpose of maintaining the state's ability to meet challenges presented by COVID-19; and

**WHEREAS**, there have been more than two million six hundred fifty-nine thousand (2,659,000) cases of COVID-19 in North Carolina, and more than twenty-three thousand four hundred (23,400) people in North Carolina have died from the disease; and

**WHEREAS**, currently, community burden of COVID-19 is relatively low in almost all North Carolina counties, but COVID-19 has repeatedly shown the ability to mutate into new variants and produce new waves of cases from existing variants; and

**WHEREAS**, as a result, it is prudent for North Carolina residents and employers to take steps that will build resilience against future COVID-19 infections; and

COVID-19 Vaccinations and Booster Shots in North Carolina

**WHEREAS**, a COVID-19 booster shot is a subsequent dose of vaccination administered to enhance or restore protection against COVID-19, which may have waned over time after a primary series vaccination; and

**WHEREAS**, rigorous clinical trials have demonstrated that the FDA-authorized and approved COVID-19 vaccinations and booster shots are safe and effective in protecting individuals against severe illness, hospitalization, and death; and

**WHEREAS**, the U.S. Centers for Disease Control and Prevention (the “CDC”) currently recommends that everyone age twelve (12) and above stay “up-to-date” on their COVID-19 vaccinations by receiving booster shots, when eligible; and

**WHEREAS**, COVID-19 vaccines for those age five (5) and older and COVID-19 booster shots for those age twelve (12) and older are widely available at no cost to all eligible North Carolinians, and all eligible North Carolinians are strongly encouraged to get vaccinated; and

**WHEREAS**, people who are vaccinated and boosted are less likely to become severely ill and die from COVID-19, and this not only benefits them, but benefits their employers by reducing lost sick time and employee death; and

**WHEREAS**, state employees who become infected with COVID-19 and are not vaccinated and boosted have a significantly greater chance of needing medical treatment and hospitalization than those who are vaccinated and boosted, which results in higher costs to the State Health Plan and taxpayers; and

**WHEREAS**, for these reasons, it is reasonable for Cabinet Agencies to encourage their employees to be vaccinated and receive booster shots, since they will protect the health of state workers, protect the health of people in state facilities, and reduce lost work time due to illness; and

**WHEREAS**, therefore, employees of Cabinet Agencies will—for the duration and under the terms of this Executive Order and any policy issued under this Executive Order—be eligible to receive an additional day of paid leave if they receive or have received a booster shot; and

Statutory Authority and Determinations

**WHEREAS**, pursuant to Article III of the Constitution of North Carolina and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 147-12, the Governor has the authority and the duty to supervise the official conduct of all executive and ministerial officers; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 143B-10(j)(3), the head of each principal state department and the Director of the Office of State Human Resources (“OSHR”) may adopt policies, consistent with law and with rules established by the Governor and with rules of the State Human Resources Commission (“Commission”), which reflect internal management procedures within each department, including policies governing the conduct of employees of the department; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 126-4, the Commission shall establish state human resources policies and rules subject to approval of the Governor; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 126-4, the Commission has established that “[a]dministration of the leave program within the scope of established policy shall be the responsibility of the agency head,” 25 N.C. Admin. Code 01E .0101; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 126-4, the Commission has established that in the case of a communicable disease emergency lasting longer than 30 days, state leave provisions

“shall be reviewed and either terminated, revised or renewed,” so that “[t]he agency head shall determine the appropriate course of action in consultation with the Governor’s Office and the State Budget Director,” 25 N.C. Admin. Code 01N .0408(a); and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 126-4, the Commission has also established that during a communicable disease emergency, “[t]he agency head is authorized to offer competitive salaries for the duration of the emergency” and “assign employees where they are most needed and compensate them accordingly for the duration of the emergency,” 25 N.C. Admin. Code 01N .0410(c)-(d); and

**WHEREAS**, the North Carolina General Assembly, the Commission, and agency heads have previously authorized a number of specific incentive programs for workplace health, including paid time off for smallpox vaccinations, donating blood or bone marrow, donating organs, lactation support, or utilizing the Employee Assistance Program for mental health and wellness; and

**WHEREAS**, three years ago, the undersigned established a significant workplace health program at Cabinet Agencies by issuing Executive Order No. 95, 33 N.C. Reg. 2346-2349 (May 23, 2019), which provides paid parental leave to eligible agency employees; and

**WHEREAS**, the terms of paid parental leave were detailed in a Cabinet Agency policy issued by OSHR and, for non-cabinet agencies wishing to participate, by a pilot program policy issued by the Commission; and

**WHEREAS**, like the paid parental leave program, the terms of this vaccination and booster incentive may be detailed in an OSHR policy or Commission policy; and

**WHEREAS**, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7), the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of departments, offices, and agencies of the state in response to the emergency; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency; and

**WHEREAS**, the dangers posed by COVID-19, and the need for resilience against COVID-19, will continue after the COVID-19 State of Emergency ends, and as a result, the workplace health incentive program established under this Executive Order will continue past the termination of that State of Emergency, pursuant to the non-emergency sources of authority described above.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

**Section 1. Management-Approved Leave for Boosted Employees.**

It shall be the policy of the Office of the Governor and Cabinet Agencies, as defined herein, to provide eight (8) hours of fully paid leave to an Eligible State Employee who has provided the agency with documentation of receiving a First Booster for COVID-19.

The undersigned directs and authorizes the Director of OSHR, on behalf of Cabinet Agency heads, to issue a Policy consistent with this Executive Order. The Policy may establish further details to implement this Executive Order. The Policy may be amended in the future based on changes in North Carolina COVID-19 conditions, the emergence of new variants, scientific or public health developments, or the needs of the state and after consultation with the Office of the Governor and NCDHHS. Any changes to the Policy may be made without amendment to this or any other Executive Order.

**Section 2. Details of Leave.**

- a. **Applicability to Cabinet Agency Employees.** The policy and the benefits specified therein shall apply only to Cabinet Agencies. All other state agencies are encouraged to voluntarily adopt similar policies to incentivize individuals to obtain their First Booster.
- b. **Definitions.** For purposes of this Executive Order, the following terms have the following meanings:
  - i. **Cabinet Agencies** — Those agencies that are part of the Governor's Office or are headed by members of the Governor's Cabinet.
  - ii. **Designated Person** — A person designated by Human Resources to collect documents under the Policy, treat them confidentially, provide them to Human Resources, and (if applicable) return them to the employee.
  - iii. **Eligible State Employee** — A full-time, part-time (half-time or more), permanent, probationary, or time-limited employee of a Cabinet Agency or other agency participating in this incentive program. Temporary employees, part-time employees who work less than half-time, interns, and contractors shall not be eligible for Supplemental Leave, though they are encouraged to obtain their booster shots when eligible.
  - iv. **First Booster** — The first subsequent dose of vaccination administered to enhance or restore protection against COVID-19 which may have waned over time after a primary series vaccination. For most individuals, the primary series of vaccination is a two-dose series of an mRNA COVID-19 vaccine (Pfizer-BioNTech and Moderna) or a single dose of Janssen COVID-19 Vaccine.
  - v. **Policy** — The policy that the undersigned directed to be issued in Section 1 of this Executive Order.
  - vi. **Supplemental Leave** — Leave provided under the terms of this policy.
- c. **Documentation of First Booster.** In order to qualify for Supplemental Leave, eligible employees must submit documentation of having obtained their First Booster to the agency's Human Resources staff or to a Designated Person. To be eligible, the employee must provide this documentation on or before August 31, 2022. The First Booster may have been administered before or after the date of this Executive Order. The documentation shall meet all requirements stated in this Executive Order and in the Policy. All medical records provided to the agency shall be kept confidential.
- d. **Amount of Leave.** Eligible State Employees who provide this documentation shall be awarded eight (8) hours of Supplemental Leave. Part-time employees, if eligible, will receive a prorated amount based on their number of hours compared to a full-time schedule.
- e. **Use of Leave.** The Supplemental Leave shall be subject to the same restrictions established in the Commission rules for Other Management Approved Leave and the Commission's Other Management Approved Leave Policy. Supplemental Leave may be taken by an employee only upon authorization by the employee's supervisor, and supervisors may ask employees to take their leave at different times to ensure that there is no impact to agency services. The Policy will establish the date when Supplemental Leave can begin to be used; this date will be as soon as reasonably possible for the



Supplemental Leave to be coded and made available. Any unused Supplemental Leave will be forfeited on March 31, 2023, unless the Policy extends this date.

- f. No Cash Value. Supplemental Leave shall have no cash value. Employees will not be paid for unused Supplemental Leave upon separation from their employment.

**Section 3. Miscellaneous.**

- a. This Executive Order does not apply to counties, municipalities, political subdivisions, local government agencies, or private entities.
- b. State entities other than Cabinet Agencies are encouraged but not required to follow this Executive Order.

**Section 4. No Private Right of Action.**

This Executive Order is not intended to create, and does not create, any individual right, privilege or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

**Section 5. Distribution.**

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

**Section 6. Effective Date.**

This Executive Order is effective immediately. Except as set forth expressly above, this Executive Order shall remain in effect through March 31, 2023, unless rescinded or replaced with a superseding Executive Order, provided, however, that OSHR and participating agencies may continue to implement the Policy, and may modify the Policy per the terms of this Executive Order, following the termination or expiration of this Executive Order and the termination or expiration of the State of Emergency.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 4<sup>th</sup> day of May in the year of our Lord two thousand and twenty-two.



Roy Cooper  
Governor

ATTEST:



Elaine F. Marshall  
Secretary of State



**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

**TITLE 01 – DEPARTMENT OF ADMINISTRATION**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Administration intends to amend the rule cited as 01 NCAC 43A .0319.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://ncadmin.nc.gov/about-doa/administrative-rules-review/proposed-rules-and-public-comment>

**Proposed Effective Date:** October 1, 2022

**Public Hearing:**

**Date:** June 22, 2022

**Time:** 10:00 a.m. - 11:00 a.m.

**Location:**

*Join from the meeting link*

<https://ncgov.webex.com/ncgov/j.php?MTID=md27ea116e591ffb19b9449e480541f3>

*Join by Meeting number (access code): 2438 999 5313*

*Meeting password: swXTsMT733*

*Tap to join from a mobile device (attendees only) +1-415-655-0003,,24389995313##*

*US Toll +1-904-900-2303,,24389995313##*

*United States Toll (Jacksonville)*

*Join by phone +1-415-655-0003 US Toll +1-904-900-2303*

*United States Toll (Jacksonville)*

**Reason for Proposed Action:** *To comply with amendments made to G.S. 143-63.1(d).*

**Comments may be submitted to:** *Donya Strong, 116 W. Jones St., Raleigh, NC 27603; email donya.strong@doa.nc.gov*

**Comment period ends:** August 1, 2022

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (>= \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

**CHAPTER 43 - SURPLUS PROPERTY**

**SUBCHAPTER 43A - STATE SURPLUS PROPERTY AGENCY**

**SECTION .0300 - DISPOSAL OF SURPLUS PROPERTY**

**01 NCAC 43A .0319 SURPLUS WEAPONS AND FIREARMS**

(a) With the exception of service side arms within the scope of G.S. 20-187.2, surplus weapons and firearms ~~possessed by the North Carolina State Highway Patrol, North Carolina Division of Adult Correction and Juvenile Justice of the Department of Public Safety and the North Carolina State Bureau of Investigation,~~ may be ~~sold~~ sold, traded or otherwise disposed of through the State Surplus Property Agency to a federally licensed firearm dealer upon written request pursuant to ~~G.S. 143-63.1(d) to sell weapons on their behalf.~~ G.S. 143-63.1(d).

(b) The written request shall include the following information for each weapon:

- (1) description by make and model number;
- (2) serial number; and
- (3) any federal or state restrictions on the sale of non-firearm weapons.

(c) Surplus weapons and firearms sales shall be made by public sale in accordance with paragraph (b) or (d) of G.S. 143-63.1.

(d) The State Surplus Property Agency shall authorize the release of the weapons to the winning bidder upon receipt of the following information:

- (1) payment in full;
- (2) proof of identification; and
- (3) proof of eligibility which shall include:
  - (A) a valid federal firearms license, if purchased pursuant to G.S. 143-63.1(d); or
  - (B) a notarized statement by the agency certifying the law enforcement need for the weapon, if purchased pursuant to G.S. 143-63.1(b).

*Authority G.S. 143-63.1; 143-64.01; 143-64.04.*

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**SUBCHAPTER 41A - COMMUNICABLE DISEASE CONTROL**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 10A NCAC 41A .0107.*

**SECTION .0100 - COMMUNICABLE DISEASE CONTROL**

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://cph.publichealth.nc.gov/>

**10A NCAC 41A .0107 REPORTING OF COVID-19 DIAGNOSTIC TEST RESULTS**

(a) For purposes of this Rule, the following definitions shall apply:

**Proposed Effective Date:** *October 1, 2022*

**Public Hearing:**

**Date:** *July 11, 2022*

**Time:** *2:00 p.m.*

**Location:** *This public hearing will be held by teleconference at (919) 715-0769 (no access code required).*

**Reason for Proposed Action:** *10A NCAC 41A .0107 governs the reporting of COVID-19 diagnostic test results by laboratories and healthcare providers to public health officials. Since the permanent adoption of this rule, the COVID-19 pandemic has continued to evolve. This rule is proposed for amendment to align reporting requirements with recent updates to federal guidance and current best practices.*

**Comments may be submitted to:** *Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email [cphcomment@lists.ncmail.net](mailto:cphcomment@lists.ncmail.net)*

**Comment period ends:** *August 1, 2022*

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☒ Approved by OSBM
- ☒ No fiscal note required

**CHAPTER 41 - EPIDEMIOLOGY HEALTH**

- (1) "COVID-19 diagnostic test" means any nucleic acid or antigen test that identifies SARS-CoV-2, the virus that causes COVID-19.
- (2) "Electronic laboratory reporting" means the automated messaging of laboratory reports sent to the Division of Public Health using a machine-readable electronic communication protocol.
- (3) "Healthcare provider" means a healthcare provider as defined in G.S. 130A-476(g)(1).
- (4) "Laboratory" means a facility that performs testing on specimens obtained from humans for the purpose of providing information for health assessment and for the diagnosis, prevention, or treatment of disease and is certified by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) at P.L. 100-578 and implementing regulations at 42 C.F.R. 493, which are hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at <https://www.congress.gov/public-laws/> and <http://ecfr.gov/>, respectively. This definition includes a healthcare provider who performs testing in an on-site facility that meets these requirements.

(b) Each person in charge of a laboratory providing diagnostic service in this State shall report the results of all COVID-19 diagnostic tests to the Division of Public Health using electronic laboratory reporting. For purposes of COVID-19, a novel coronavirus under Rule .0101(c)(1) of this Section, the required method of reporting set out in Rules .0101(c) and .0102(d)(3) of this Section shall not apply. The report Reports shall be made in alignment with the requirements for laboratories by entity and type of testing and minimum data elements as set forth in shall include all of the elements required to be reported under the United States Department of Health and Human Services, Services' COVID-19 Pandemic Response, Laboratory Data Reporting: CARES Act Section 18115 laboratory data reporting guidance, which is hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at <https://www.hhs.gov/sites/default/files/covid-19-laboratory-data-reporting-guidance.pdf>.

(c) The requirements set forth in Paragraph (b) of this Rule shall be considered met if a laboratory:

- (1) submits a COVID-19 Laboratory Data Automation Registration form to the Division of Public Health and acts to onboard to

electronic laboratory reporting. This form shall be submitted within seven calendar days of the date the laboratory starts performing COVID-19 diagnostic testing and shall contain the following elements:

- (A) the name, address, phone number, and CLIA number of the laboratory;
  - (B) the name, address, and phone number of the person in charge of the laboratory or that person's designee;
  - (C) the type of test performed, testing capacity, and whether the laboratory will use a third-party laboratory to perform part or all of the testing; and
  - (D) if the laboratory will use a third-party laboratory to perform part or all of the testing, the information in Parts (A)-(B) of this Subparagraph for the third-party laboratory; and
- (2) until onboarding to electronic laboratory reporting is complete, complete:
- (A) reports the results of positive COVID-19 diagnostic tests to the Division of Public Health, including all elements required in Paragraph (b) of this Rule, by telefacsimile, telefacsimile; and
  - (B) ~~reports the aggregate number of positive and negative nucleic acid COVID-19 diagnostic tests and the aggregate number of positive and negative antigen COVID-19 diagnostic tests per day to the Division of Public Health through an online survey available at: <https://covid19.ncdhhs.gov/media/2889/open>.~~

(d) The requirements set forth in Paragraph (b) of this Rule shall be considered met if a laboratory that completes fewer than 50 total COVID-19 diagnostic tests per week submits results as set out in Subparagraph (c)(2) of this Rule.

(e) ~~Healthcare providers who order COVID-19 diagnostic testing in this State shall:~~

- (1) ~~report the results of positive COVID-19 diagnostic tests by telefacsimile to the local health director in the county or district where the patient resides. The report shall contain:~~
  - (A) ~~patient first and last name, date of birth, address, county of residence, phone number, sex, race, and ethnicity;~~
  - (B) ~~provider name, address, phone number, and NPI;~~
  - (C) ~~the specimen collection date, the test order date, and the test result date;~~
  - (D) ~~the test result; and~~
  - (E) ~~all other available elements required in Paragraph (b) of this Rule; and~~
- (2) ~~report the aggregate number of positive and negative nucleic acid COVID-19 diagnostic~~

~~tests and the aggregate number of positive and negative antigen COVID-19 diagnostic tests per day to the Division of Public Health through an online survey available at: <https://covid19.ncdhhs.gov/media/2889/open>.~~

(f) ~~The requirements set forth in Paragraph (e) of this Rule shall be considered met if a healthcare provider:~~

- (1) ~~verifies that the laboratory that receives the specimen for testing will report the test result in accordance with Paragraph (b) of this Rule; and~~
- (2) ~~includes patient first and last name, date of birth, address, county of residence, phone number, sex, race, ethnicity, and specimen collection date on the lab order.~~

(g) ~~The requirement for healthcare providers to report COVID-19 diagnostic test results, as set out in Paragraph (e) of this Rule, is separate from the requirement for physicians to report suspected infections of COVID-19, a novel coronavirus, including positive COVID-19 diagnostic test results, in accordance with G.S. 130A-135 and Rules .0101(a) and .0102(a) of this Section.~~

(h)(e) ~~Laboratories and healthcare providers who that are required to report under this Rule shall report positive COVID-19 diagnostic test results immediately upon receiving the result and negative COVID-19 diagnostic test results, as applicable, results within 24 hours of receiving the result. Results reported to a local health department under this Rule shall be forwarded to the Division of Public Health within 24 hours of receipt by the local health department.~~

Authority G.S. 130A-134; ~~130A-135~~; 130A-139; 130A-141; 130A-141.1; S.L. 2020 4, s. 4.10(a)(1).

## TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

*Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Commission for Public Health intends to readopt with substantive changes the rules cited as 15A NCAC 18A .1301, .1302, .1304-.1321, .1323, .1324 and .1327.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://cph.publichealth.nc.gov/>

**Proposed Effective Date:** October 1, 2022

### **Public Hearing:**

**Date:** July 18, 2022

**Time:** 2:00 p.m.

**Location:** This public hearing will be held by teleconference at (919) 715-0769 (no access code required).

**Reason for Proposed Action:** Pursuant to G.S. 150B-21.3A, periodic review and expiration of existing rules, the Commission for Public Health is proposing to readopt 15A NCAC 18A .1301-.1302, .1304-.1321, .1323-.1324, and .1327, regarding the administration and enforcement of sanitation standards in institutions, with updates to clarify existing language and align with current practices.

**Comments may be submitted to:** Virginia Niehaus, CPH  
Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC  
27699-1931; email [cphcomment@lists.ncmail.net](mailto:cphcomment@lists.ncmail.net)

**Comment period ends:** August 1, 2022

**Procedure for Subjecting a Proposed Rule to Legislative**

**Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☒ State funds affected
- ☒ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☒ Approved by OSBM
- ☐ No fiscal note required

**CHAPTER 18 - ENVIRONMENTAL HEALTH**

**SUBCHAPTER 18A - SANITATION**

**SECTION .1300 - SANITATION OF HOSPITALS,  
NURSING HOMES, ADULT CARE HOMES, AND  
OTHER INSTITUTIONS**

**15A NCAC 18A .1301 DEFINITIONS**

The following definitions shall apply throughout this Section in the interpretation and enforcement of this Section:

- (1) "Activity kitchen" means a kitchen that is available to residents of an institution and their guests for the purpose of preparing food for individual or group activities. Nothing in this Section shall prohibit residents or employees of a residential care facility, as that term is defined at 15A NCAC 18A .1601(8), or their guests, from using an activity kitchen when an institution's activity kitchen is in the same building where a residential care facility is located.
- (2) "Administrator" means the person designated by the licensee to be responsible for the daily operation of the institution.
- (3) "Ancillary kitchen" means a kitchen that is used by the institution's employees for meal preparation and other work to support the

- dietary kitchen. Ancillary kitchens shall meet the requirements of 15A NCAC 18A .2600.
- (4) "Bed linens" means bed sheets, pillowcases, mattress covers, blankets, and duvets covers.
- (5) "Clean" means that an object or surface has been made free of garbage, solid waste, soil, dust, hair, dander, food, bodily fluids and secretions, and feces.
- (6) "Department" means the North Carolina Department of Health and Human Services.
- (7) "Dietary kitchen" means the primary kitchen in the institution that is used to provide meals and nutrition services to the institution's residents, employees, and guests. Dietary kitchens shall meet the requirements of 15A NCAC 18A .2600.
- (4)(8) "Disinfect" means a non-sporicidal process used on inanimate surfaces to destroy or irreversibly inactivate ~~infectious fungi~~ fungi, viruses, and bacteria ~~but not necessarily their spores~~ by using an EPA registered disinfectant in accordance with the disinfectant's product label.
- (2) "Environmental Health Specialist" means a ~~person authorized by the Department of Environment and Natural Resources under G.S. 130A-6 to enforce environmental health rules adopted by the Commission for Public Health.~~
- (9) "EPA registered disinfectant" means a disinfectant as defined at 40 C.F.R. 158.2203 that has been registered with the United States Environmental Protection Agency ("EPA") in accordance with 40 C.F.R. 152.
- (10) "Garbage" means as defined at G.S. 130A-290(7).
- (11) "Good repair" means as defined at 15A NCAC 18A .2651(8). Items that are in good repair shall operate in accordance with the manufacturer's instructions.
- (12) "Hand Hygiene Program" means a written plan implemented in an institution in the absence of hand washing facilities as set forth in this Section. The licensee or the licensee's designee shall submit the hand hygiene program plan to the local health department for the county in which the institution is located, serving as the regulatory authority, for approval prior to the implementing the hand hygiene program. The regulatory authority shall notify the institution or the institution's designee in writing of the decision to approve or not to approve the hand hygiene program plan. In determining whether to approve the hand hygiene program, the regulatory authority shall consider the following:
  - (a) the type and frequency of activities carried out at the institution that involve employee or resident contact

- with bodily excretions or secretions;  
and
- (b) the number of handwashing facilities  
on each wing or floor of an  
institution's building or buildings.
- (3)(13) "Institution" includes the following establishments providing that provide room or board and for which a license or certificate of payment must be obtained from the Department; Department of Health and Human Services, other than those operated exclusively by the State of North Carolina:
- (a) hospital, as defined in G.S. 131E-76 including doctors' clinics with food preparation facilities;
- (b) nursing home, as defined in G.S. 131E-101;
- (c) sanitarium, sanatorium, and any similar an establishment, other than hospital and nursing home, for the recuperation and treatment of 13 or more persons suffering from physical disorders; conditions;
- (d) adult care home, providing custodial care on a 24 hour basis for 13 or more persons, including homes for the aged; as defined at G.S. 131D-2.1;
- (e) orphanage, or children's home providing care on a 24 hour basis for 13 or more children. residential child care facility, as defined at G.S. 131D-10.2(13); and
- (f) facilities that provide room and board to individuals but are exempt from licensure under G.S. 131D-10.4(1).
- However, the This term shall not include a child day care facility, facility as defined in G.S. 110-86(3), an adult day service facility as defined in 15A NCAC 18A .3300 .3300, or a residential care facility as defined in 15A NCAC 18A .1600.
- (4) "Department of Environment and Natural Resources" shall mean the Secretary, or his authorized representative.
- (14) "Licensing agency" means the North Carolina Department of Health and Human Services, Division of Health Service Regulation.
- (15) "Linens" means bath towels, hand drying towels, and bed linens.
- (5)(16) "Local health director" "department" means shall mean local health director as defined in G.S. 130A-2(5). 430A-2(6) or his authorized representative.
- (17) "Non-community water supply" means a noncommunity water system as defined at G.S. 130A-313(10).
- (18) "Nourishment station" means an area where commercially packaged food that is used to
- provide nourishment to an institution's residents, employees, or guests is stored.
- (19) "Pest" means as defined at G.S. 143-460(26a).
- (20) "Refuse" means a defined at G.S. 130A-290(28).
- (21) "Registered Environmental Health Specialist" or "REHS" means as defined at G.S. 90-51(4).
- (22) "Regulatory authority" means the Department or authorized agent of the Department.
- (23) "Rehabilitation kitchen" means a kitchen used solely for the purpose of providing supervised therapeutic activities to residents, including occupational or physical therapy. Food prepared in a rehabilitation kitchen shall not be consumed by anyone who is not a participant in the therapeutic activity being conducted in the rehabilitation kitchen.
- (24) "Resident" means an individual residing in or being served by the institution, including patients. This term does not include an institution's employees or a resident's guests.
- (6) "Patient" means a patient or resident living in an institution as defined in this Section.
- (7) "Person" shall mean an individual, firm, association, organization, partnership, business trust, corporation, or company.
- (8) "Personal Hygiene" means maintenance of personal health, including grooming, brushing teeth, showering, applying makeup, or washing/drying face, hands, and body.
- (9) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including Clostridium botulinum. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods that have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
- (40)(25) "Sanitize" means as defined a bactericidal treatment that meets the temperature and chemical concentration levels in 15A NCAC 18A .2619. 2600
- (11) "Soiled utility room" means a room or area with fixtures used for cleaning and disinfecting soiled patient care items.
- (26) "Solid waste" means as defined at G.S. 130A-290(35).
- (27) "Time/Temperature Control for Safety Food" or "TCS Food" means as defined in 15A NCAC 18A .2600.
- (28) "Yard trash" means as defined at G.S. 130A-290(45).

Authority G.S. 130A-235.

**15A NCAC 18A .1302 APPROVAL OF PLANS**

~~In addition to any other licensure requirements, Construction plans for an institution shall be submitted by the licensee to the local health department for the county in which the institution is located, serving as the regulatory authority, for review and approval before beginning construction. Construction plans shall be approved by the regulatory authority when the plans comply with the Rules of this Section.~~

*Authority G.S. 130A-235.*

**15A NCAC 18A .1304 INSPECTIONS**

(a) Institutions shall be ~~graded~~ inspected once ~~each~~ in a six months month period by the local health department for the county in which the institution is located, serving as the regulatory authority, ~~and food services at Dietary kitchens within institutions that prepare and serve meals to 13 or more patients or residents shall be inspected at least once each quarter.~~ in accordance with G.S. 130A-235(a) or 10A NCAC 46 .0213, as applicable.

(b) The grading inspection of institutions shall be ~~done~~ documented on inspection forms furnished by the Department to local health departments. The form shall include the following information:

- (1) the name and address of the ~~facility;~~ institution;
- (2) the name of the ~~person in charge of the facility;~~ licensee;
- (3) ~~the standards of a description of the institution's construction and operation standards as listed described in Rules .1309 - .1324 of this Section;~~ an explanation for all points deducted during the inspection and scoring;
- ~~(4)(5)~~ the institution's operating status and the score; and
- ~~(5)(6)~~ the signature of the Registered Environmental Health Specialist who conducted the inspection; authorized agent of the Department; and
- ~~(7)~~ the date on which the inspection was conducted.

(c) ~~Whether or not a permit is required under G.S. 130A 248, inspections of food preparation and central dining areas in institutions serving meals to 13 or more patients or residents. The inspection of dietary kitchens and ancillary kitchens and associated dining areas shall be documented separately using the inspection forms and grading system used for grading restaurants as specified in current "Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments" 15A NCAC 18A .2600. When grading the food preparation and central dining areas of institutional food services that are not required to obtain a permit under G.S. 130A 248, the provisions of Rule .1323(d) of this Section shall supercede the provisions of Rule 15A NCAC 18A .2610(e) regarding animals in dining areas. Except as required by G.S. 130A 247 through 250, food services at institutions shall not be required to obtain foodhandling establishment permits. Facilities that the "Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments" are made effective by the rules of this Section that were Dietary kitchens and associated dining areas in operation before March 1, 2003 may shall be allowed to continue to use equipment and construction in use on that date if no~~

~~imminent hazard as defined at G.S. 130A-2(3) exists. Points shall not be deducted from the food service sanitation score for existing equipment that is kept clean and performs the task for which it is used. Replacement When such equipment is replaced, the replacement equipment for these facilities shall comply with 15A NCAC 18A .2600.~~

*Authority G.S. 130A-235.*

**15A NCAC 18A .1305 GRADING RESIDENTIAL CARE FACILITIES IN INSTITUTIONS**

~~If When an institution is located in the same building or on the same property as includes one or more residential care facilities each providing that provide room or board for 12 persons or fewer, the residential care facilities shall be inspected and graded separately from the institution and in accordance with rules in 15A NCAC 18A .1600. .1600 shall apply and grading of the residential care facilities shall be in accordance with the residential care and these Rules do not apply.~~

*Authority G.S. 130A-235.*

**15A NCAC 18A .1306 PUBLIC DISPLAY OF GRADE CARD**

(a) ~~Whenever~~ When an inspection of an institution is made, the regulatory authority ~~Environmental Health Specialist~~ shall designate the location where the remove the existing grade card shall be posted. ~~card, issue a new grade card, and post the new~~ The grade card shall be located where it may be readily observed by the public upon entering the facility. The administrator shall be responsible for keeping the grade card posted at the location designated by the Environmental Health Specialist at all times. If the administrator objects to the location designated by the Environmental Health Specialist, then the administrator may suggest an alternative location which meets the criteria of this Rule. The posted grade card shall be black text on a white background. The section of text on the grade card that lists the numeric score and the alphabetic grade shall be 1.5 includes in height.

(b) ~~Private institutions are inspected and graded by Environmental Health Specialists employed by the local health departments, under the direction of the local health directors. When and inspection of an institution is conducted, the regulatory authority shall remove any existing grade card, issue a new grade card, and post the new grade card in accordance with Paragraph (a) of this Rule. The administrator shall keep the grade card posted at the designated location at all times.~~

*Authority G.S. 130A-235.*

**15A NCAC 18A .1307 REINSPECTIONS**

~~Upon the receipt of a request from of the management administrator, the regulatory authority shall conduct for a reinspection for the purpose of raising the alphabetical grade in accordance with the Rules of this Section, of the institution, the Environmental Health Specialist The administrator shall submit the request for reinspection to the local health department, serving as the regulatory authority, for the county in which the institution is located. The regulatory authority shall make an unannounced~~

inspection after the lapse of a reasonable period of time, not to exceed within 30 days, calendar days from the date on which the request for reinspection is made. The alphabetical grade that is assessed based on the reinspection shall replace the institution's most recently assessed alphabetical grade. Following a reinspection, a new grade card shall be issued and posted in accordance with Rule .1306 of this Section.

Authority G.S. 130A-235.

**15A NCAC 18A .1308 APPROVED INSTITUTIONS AND SCORING SYSTEM**

(a) The ~~sanitation~~ grading of all institutions shall be based on a sanitation system of scoring as follows:

- (1) ~~wherein all~~ institutions receiving a score of at least 90 percent or greater shall be awarded Grade A;
- (2) ~~all~~ institutions receiving a score of at least 80 percent and less than 90 percent shall be awarded Grade B;
- (3) ~~all~~ institutions receiving a score of at least 70 percent and less than 80 percent shall be awarded Grade C; and
- (4) ~~all~~ institutions receiving a score of less than 70 percent do not meet the minimum sanitation ~~standards~~, standards and shall not receive a grade.

(b) If an institution or an ~~institutional food service~~ an institution's dietary kitchen fails to earn ~~maintain~~ a sanitation score of at least 70 percent, ~~or if the Environmental Health Specialist determines that conditions found at the institution at the time of any inspection are dangerous to the health of residents or the public, the Environmental Health Specialist~~ the regulatory authority shall notify the licensing agency within 24 ~~hours~~, hours of completing the inspection and shall provide a copy of the inspection report ~~documenting the dangerous conditions shall be sent to the licensing agency within two working business days following of the date of the inspection.~~

~~(b)(c)~~ Sanitation scores for institutions shall be determined by an Environmental Health Specialist authorized by the Department by completing an inspection report Form DENR-1213. The sanitation score is a percentage ~~compliance~~ determined by deducting points from 100 percent for each item found not to be in compliance with the Rules of this Section. Deductions for sanitation scores shall be based on actual violations of the Rules of this Section that are observed during the inspection. The regulatory authority authorized Environmental Health Specialist shall deduct ~~take~~ zero, one-half, or a full or half credit deduction for non-compliant items based on the severity or the recurring nature ~~severity, pervasiveness and persistence~~ of the rule violation. The percentage point value of each item is determined as follows:

- (1) Violation of Rule .1309 of this Section regarding ~~cleanability~~ the cleanliness and repair of floors and carpet ~~provision of floor drains~~ shall be assessed a value of equal no more than two points.
- (2) ~~Violation of Rule .1309 of this Section regarding cleaning and maintenance of floors~~

~~and carpet shall be assessed a value of two points.~~

- ~~(3)(2)~~ Violation of Rule ~~.4310~~ .1310(a) of this Section regarding ~~cleanability and repair of walls and ceilings shall be assessed equal a value of no more than two points.~~
- (3) Violation of Rule .1310(b) of this Section regarding ceiling attachments shall equal no more than one point.
- (4) Violation of Rule .1311(a) of this Section regarding lighting levels shall ~~be assessed equal a value of no more than two points.~~ one point.
- (5) Violation of Rule .1311(b) ~~or (c)~~ of this Section regarding ~~ambient air temperatures and cleaning~~ cleanliness of ventilation equipment shall be assessed equal a value of no more than two points. one point.
- (6) Violation of Rule .1311(c) of this Section regarding ambient air temperatures shall equal no more than two points.
- ~~(6)~~ Violation of Rule ~~.1311(d)~~ of this Section regarding ~~moisture control shall be assessed a value of three points.~~
- ~~(7)~~ Violation of Rule ~~.1311(e)~~ of this Section regarding ~~control of indoor smoke exposure shall be assessed a value of two points.~~
- ~~(8)(7)~~ Violation of Rules ~~.1312(a), (b), or (f)~~ Rule .1312(a) of this Section regarding ~~location, cleaning and repair of toilet, handwashing~~ handwashing, and bathing facilities shall be assessed equal a value of no more than two points.
- ~~(9)(8)~~ Violation of Rule .1312(b) of this Section regarding ~~toilet rooms storage and signage shall be assessed equal a value of no more than one point.~~
- ~~(10)(9)~~ Violation of Rule .1312(c) of this Section regarding bedpans, urinals, bedside ~~commodes~~ commodes, and emesis basins shall be assessed equal a value of no more than one point.
- (11) Violation of Rule ~~.1312(c) or (d)~~ of this Section regarding ~~provision, accessibility and use of hand sinks shall be assessed a value of two points.~~
- ~~(12)(10)~~ Violation of Rule .1312(d) of this Section regarding ~~equipment for handwashing facilities shall be assessed equal a value of no more than three points.~~
- ~~(13)(11)~~ Violation of Rule .1312(e) of this Section regarding ~~disinfectants hot water temperature at lavatory and bathing facilities shall be assessed equal a value of no more than two points.~~
- ~~(14)(12)~~ Violation of Rule .1312(f) of this Section regarding ~~bathing facilities accessibility and mixing of cleaning and disinfectant agents shall be assessed equal a value of no more than three two points.~~
- ~~(15)(13)~~ Violation of Rule .1313(a) ~~or (d)~~ of this Section regarding water supply ~~and cross connections~~



- shall be assessed equal a value no more than of four points.
- (14) Violation of Rule .1313(b) of this Section regarding water sampling shall equal no more than two points.
- (15) Violation of Rule .1313(c) of this Section regarding cross-connections shall equal no more than two points.
- (16) Violation of Rule .1313(d) .1313 (e) or (f) of this Section regarding quantity of hot and cold water and backup water supply plans shall be assessed equal a value of no more than three two points.
- (17) Violation of Rule .1313(e) of this Section regarding back up water supply plans shall equal no more than one point.
- (17)(18) Violation of Rule .1314(a) of this Section regarding cleaning and maintenance cleaning, repair and flow regulation of drinking fountains shall be assessed equal a value of no more than one point. two points.
- (18)(19) Violation of Rule .1314(a) .1314(b) of this Section regarding drinking utensils used for service of water and ice shall be assessed equal a value of no more than two points.
- (19)(20) Violation of Rule .1314(b) .1314(c) of this Section regarding protection of ice and cleaning and repair of ice making and handling equipment and utensils shall be assessed equal a value of no more than two points.
- (20)(21) Violation of Rule .1315 .1315(a) of this Section regarding wastewater sewage disposal shall be assessed equal a value of no more than four points.
- (22) Violation of Rule .1315(a) of this Section regarding disposal of mop water shall equal no more than three points.
- (21)(23) Violation of Rule .1316(a) .1316(a), (b) or (c) of this Section regarding solid waste storage and container cleaning facilities shall be assessed equal a value of no more than one point. four points.
- (22)(24) Violation of Rule .1316(d) .1316(b) of this Section regarding refuse, recyclables, and returnables solid waste disposal and control of insect breeding or nuisance shall be assessed equal a value of no more than one point. two points.
- (23)(25) Violation of Rule .1316(e) .1316(c) of this Section regarding containers and container washing facilities handling and disposal of medical wastes shall be assessed equal a value of no more than one point. two points.
- (24)(26) Violation of Rule .1316(d) of this Section regarding cleaning and maintenance of the premises shall equal no more than two points.
- (27) Violation of Rule .1316(e) of this Section regarding handling and disposal of medical waste shall equal no more than two points.
- (28) Violation of Rule .1317(a) of this Section regarding pest control exclusion of vermin shall be assessed equal a value of no more than one point. three points.
- (25)(29) Violation of Rule .1317(b) of this Section regarding storage and handling of pesticides shall be assessed equal a value of no more than two points.
- (26) Violation of Rule .1317(e) of this Section regarding cleaning and maintenance of premises shall be assessed a value of two points.
- (27) Violation of Rule .1317(e) or (f) of this Section regarding pet maintenance shall be assessed a value of two points.
- (28) Violation of Rule .1318(a) of this Section regarding storage areas shall be assessed a value of one point.
- (29) Violation of Rule .1318(b) of this Section regarding mop sinks shall be assessed a value of one point.
- (30) Violation of Rule .1318(a) .1318(e) of this Section regarding medication carts shall be assessed equal a value of no more than two points.
- (31) Violation of Rule .1318(b) .1318(d) of this Section regarding feeding syringes, oral suction eatheters catheters, and tube-feeding bags shall be assessed equal a value of no more than two points.
- (32) Violation of Rule .1319(a) of this Section regarding furnishings cleaning and repair of furniture and use of mattress covers shall be assessed equal a value of no more than one point. two points.
- (33) Violation of Rule .1319(b) of this Section regarding linens and linen storage changes and handling of soiled laundry shall be assessed equal a value of no more than one point. two points.
- (34) Violation of Rule .1319(c) .1319 of this Section regarding laundry areas and equipment, cleaning and sanitizing of laundry, and storage and handling of clean laundry shall be assessed equal a value of no more than three two points.
- (35) Violation of Rule .1319(d) .1319(e) of this Section regarding laundry repair, storage, cleaning and disinfection of patient contact items shall be assessed equal a value of no more than no more than one point.
- (36) Violation of Rule .1319(e) .1320 of this Section regarding laundry areas approval, cleaning and sanitizing food contact items shall be assessed equal a value of no more than one point. two points.
- (37) Violation of Rule .1319(f) of this Section regarding mobility equipment shall equal no more than one point.

- (37)(38) Violation of Rule .1320(a) ~~.1320~~ of this Section regarding food service equipment approved uses of activity kitchens shall be assessed equal a value of no more than one point.
- (39) Violation of Rule .1320(b) of this Section regarding cleaning and sanitization of utensils shall equal no more than three points.
- (38)(40) Violation of Rule .1320(c) ~~.1320(b)~~ of this Section regarding handwashing lavatories ~~in foodhandling areas~~ shall be assessed equal a value of no more than two points.
- (41) Violation of Rule .1320(d) of this Section regarding cooking and baking equipment surfaces shall equal no more than one point.
- (39)(42) Violation of Rule .1321(a) of this Section regarding food sources and supplies shall be assessed equal a value of no more than three ~~four~~ points.
- (40)(43) Violation of Rule .1321(b) of this Section regarding storage, labeling, and condition disposition of food brought by employees or visitors shall be assessed equal a value of no more than one point.
- (41) Violation of Rule .1322 of this Section regarding milk and milk products shall be assessed a value of two points.
- (42)(44) Violation of Rule .1323(a) of this Section regarding food protection ~~protection, temperature control and time in lieu of temperature~~ shall be assessed equal a value of no more than four points.
- (43)(45) Violation of Rule .1323(b) of this Section regarding hot and cold food storage equipment and display units and thermometers shall be assessed equal a value of no more than one point.
- (44)(46) Violation of Rule .1323(c) of this Section regarding food storage shall be assessed equal a value of no more than one point.
- (45)(47) Violation of Rule .1323(d) of this Section regarding control of live animals ~~in food service areas~~ shall be assessed equal a value of no more than two points.
- (46)(48) Violation of Rule .1324(a) of this Section regarding employee clothing and tobacco use while handling food shall be assessed equal a value of no more than two points. ~~one point.~~
- (47)(49) Violation of Rule .1324(a)(1)-(5) ~~.1324(a)~~ or ~~(b)~~ of this Section regarding employee ~~hand washing handwashing and hand antisepsis~~ shall be assessed equal a value of no more than three points.
- (50) Violation of Rule .1324(b) of this Section regarding employee handwashing shall equal no more than three points.
- (48)(51) Violation of Rule .1324(c) of this Section regarding exclusion of persons with certain diseases and conditions ~~infections~~ from food

service work shall be assessed equal a value of no more than four ~~two~~ points.

- (52) Violation of Rule .1324(d) of this Section regarding cleaning supplies and written procedures for responding to vomiting or diarrheal events shall equal no more than two points.

Authority G.S. 130A-235.

#### 15A NCAC 18A .1309 FLOORS

- (a) ~~All The~~ floors in ~~intensive care units, bathrooms, showers, hydrotherapy areas, operating rooms, soiled utility rooms and laundry areas~~ an institution shall be made of smooth, non-absorbent materials and ~~so constructed as to be easy to clean.~~ shall be kept clean and in good repair.
- (b) Floors shall be free of obstacles to cleaning, and shall be kept clean and in good repair. Notwithstanding the foregoing in Paragraph (a) of this Rule, if ~~Carpeting~~ carpet is installed in an institution then the carpet shall be ~~maintained~~ kept clean, odor free, dry and in good repair.
- (b) In all rooms in which floors are subjected to flooding type cleaning, floors shall be of nonabsorbent materials, shall be sloped to drain and be provided with floor drains.

Authority G.S. 130A-235.

#### 15A NCAC 18A .1310 WALLS AND CEILINGS

- (a) The interior walls of the institution, including doors, windows and window trim, and ceilings of all rooms and areas shall be kept clean and in good repair. ~~All walls shall be easily cleanable and shall have washable surfaces to the highest level reached by splash or spray in rooms or areas where such occur.~~
- (b) Ceiling attachments, including light fixtures and fans, shall be kept clean and in good repair.

Authority G.S. 130A-235.

#### 15A NCAC 18A .1311 LIGHTING, LIGHTING AND VENTILATION AND MOISTURE CONTROL

- (a) ~~All The~~ areas interior to an institution's building or buildings shall be provided equipped with sufficient illumination to effectively perform all operations, including cleaning, and shall have at least 10 foot candles of light at 30 inches above the floor. ~~floor in all areas other than food service areas. Food service areas shall be lighted as required for restaurants in "Rules Governing The Sanitation of Restaurants and other Foodhandling Establishments" 15A NCAC 18A .2600.~~
- (b) Ventilation equipment shall be kept clean and in good repair.
- (c) Ambient indoor air temperatures shall be maintained in the range of 65° F 65 degrees Fahrenheit to 85° F. 85 degrees Fahrenheit.
- (d) Moisture shall be controlled such that there is no evidence of microbial growth on interior surfaces and objects.
- (e) Indoor smoking, including the carrying of any lit cigarette, pipe, cigar, or other similar product containing tobacco or other substances shall be restricted to dedicated smoking rooms. Smoking rooms shall be ventilated to prevent environmental tobacco smoke from moving into other occupied portions of the

building. There shall be no obligation to establish such smoking rooms.

Authority G.S. 130A-235.

**15A NCAC 18A .1312 TOILET; HANDWASHING; LAUNDRY; AND BATHING FACILITIES**

(a) All institutions shall ~~provide~~ be provided with toilet, handwashing, and bathing facilities that are ~~conveniently located and readily accessible to residents and staff. These facilities, and laundry facilities when provided, shall be kept clean and in good repair.~~

(b) ~~Toilet facilities shall comply with the requirements of the state agency licensing the facility. Toilet rooms shall not be used for storage. Fixtures and furnishings shall be kept clean and in good repair. Durable, legible signs~~ A sign shall be posted or stenciled conspicuously in each toilet room for ~~food service institution~~ employees directing them to wash their hands after each visit to the toilet room and before returning to work.

(c) Institutions where bedpans, bedside commodes, urinals, ~~urinals~~ or emesis basins are used shall provide facilities for emptying, cleaning, and disinfecting bedpans, beside commodes, urinals, urinals and emesis basins. Bedpans, bedside commodes, urinals, shared diaper changing surfaces, urinals and emesis basins that have been used by a resident shall be cleaned after each use kept clean and shall be disinfected before use by other patients. residents. Where bedpans are cleaned in patient rooms, bedpan cleaning facilities shall consist of a water closet with bedpan lugs or spray arms. Where facilities for cleaning bedpans are not provided in patient rooms, bedpans shall be taken to a soiled utility room and be cleaned and disinfected using an EPA registered hospital disinfectant after each use. Where ~~When~~ disposable bedpans, emesis basins, and urinals ~~bedpans~~ are reused, they shall be labeled with the date of first use and so that they are associated with an individual resident. Disposable bedpans, emesis basins, and urinals patient's name and date and shall not be used by more than one resident, patient. ~~Bedside commodes shall be cleaned after each use and shall be cleaned and disinfected before use by successive patients. Hand sinks shall not be used for cleaning bedpans or bedside commodes.~~

(d) Handwashing facilities shall be located in an institution in accordance with 10A NCAC 13B, 10A NCAC 13D, 10A NCAC 13F, and 10A NCAC 13K, as applicable. Institutions that do not have a handwashing facility located in all areas required by this Paragraph shall not be required to install handwashing facilities if the institution has an approved hand hygiene program, accessible to all areas where personnel may be exposed to bodily excretions or secretions and in sterile supply processing areas, medication rooms, laundry areas, and soiled utility rooms. Any area where personnel may be exposed to bodily excretions or secretions shall have handwashing facilities located in the same room or have a doorway connecting to an adjacent room or corridor containing handwashing facilities. All lavatories Hand washing facilities shall be supplied equipped with hot and cold running water through a and a tempering mixing device, faucet, or with tempered warm water, soap, and sanitary towels or hand drying devices. Facilities in operation prior to March 1, 2003 that do not have handwashing lavatories in all areas required shall not be required to install additional lavatories if an approved hand hygiene

program is used. Hand hygiene programs shall be approved by the Environmental Health Specialist case by case based on type and frequency of activities involving contamination with bodily excretions or secretions, use of gloves to reduce contamination, availability of pre moistened detergent wipes for hand cleaning, use of alcohol rubs or other skin antiseptics, and availability of handwashing facilities on the same wing or floor of the building. Handwashing facilities shall be supplied with soap and sanitary towels or hand-drying devices, provided in kitchens and any other food preparation areas in addition to any lavatories provided at employees' toilet rooms. Sinks used for washing utensils and equipment shall not be accepted as a substitute for required handwashing facilities. Handwash lavatories Handwashing facilities shall be used only for handwashing. Lavatories provided for use of patients or residents shall be used only for handwashing, personal hygiene, rinsing feeding tubes and obtaining water. Lavatories used for handwashing or personal hygiene and shall not be used for disposal of body bodily fluids or washing items that are not clean, cleaning soiled linens. Lavatories in medication rooms used primarily for handwashing can be used for other purposes, such as disposal of medications, which do not interfere with effective handwashing. Notwithstanding the foregoing sentence, handwashing facilities provided for use in a resident's room may be used for personal hygiene, rinsing feeding tubes, obtaining drinking water, and disposal of medications in accordance with the manufacturer's instructions or non-TCS liquids as long as the handwashing facility is kept clean and is disinfected daily. Employees shall be permitted to use handwashing facilities in medication storage rooms to dispose of medications in accordance with the manufacturer's instructions.

(e) Water heating facilities shall provide hot water within the temperature range of 100 degrees F to 116 degrees F at all lavatories and bathing facilities. EPA registered disinfectants shall be used in accordance with the manufacturer's instructions. When EPA registered disinfectants are mixed and prepared by institution employees, a measuring device, chemical testing device, or the methods and devices proscribed by the chemical manufacturer shall be used to prepare the concentration of chemicals in accordance with the disinfectant's label and the manufacturer's instructions.

(f) Bathing facilities as required by the licensing agency shall be provided, maintained and kept clean. Bathing facilities shall be supplied equipped with hot and cold running water and a mixing device, or tempering device. Shared bathing Bathing equipment that has contact with a resident's patient's skin and is used by more than one resident shall be kept clean cleaned with detergent and shall be disinfected an EPA registered hospital disinfectant between patient resident uses. Equipment located within a bathing facility that uses a pump to move water shall be kept clean in accordance with the manufacturer's instructions. Manufacturer's instructions shall be followed for cleaning equipment with pumps. A supply of cleaning and disinfectant agents shall be accessible to bathing areas. Where disinfectants are mixed on site, the concentration of the mix shall be assured by use of a metering pump, measuring device or chemical test kit.

Authority G.S. 130A-235.

### 15A NCAC 18A .1313 WATER SUPPLY

(a) Water supplies at institutions shall meet the requirements in 15A NCAC 18C or 15A NCAC 18A .1700, as applicable.

(b) ~~Non-community public water supplies shall be listed with the Public Water Supply Section, Division of Environmental Health.~~

(c) In institutions that use a non-community water supply, a sample of water shall be collected by the Department ~~at least once a year and submitted to the Division of North Carolina State Laboratory of Public Health Services or other laboratory certified by the North Carolina State Laboratory of Public Health under 10A NCAC 41C .0102 Department~~ to perform bacteriological examinations.

(d) ~~An institution's water supply plumbing shall not include cross-connections cross-connections as set out in 15A NCAC 18C .0102(c)(8) with sewage lines, non-potable water supplies, or other potential sources of contamination are prohibited.~~

(e) Hot water heating facilities shall be provided. Hot and cold running water under pressure shall be provided to food preparation areas, and to any other areas where water is required in sufficient quantities to carry out all operations. Hot water shall be provided at temperatures between 105 degrees Fahrenheit and 116 degrees Fahrenheit at handwashing and bathing facilities.

(f) The local health department administrator shall be immediately notified notify the licensing agency and the local health department that serves the county in which the institution is located if the institution's primary water supply is interrupted for more than four consecutive hours. Each The institution shall have a written plan to obtain a backup water supply in the event that the institution's primary water supply is lost interrupted for more than four consecutive hours. The written plan shall identify a backup water supply or alternate source of water plan shall that provides provide for two liters of potable water per day per resident and institution employee person for drinking, drinking and potable water for The backup water supply plan shall include a plan for either relocating residents or providing an alternative source of water for essential functions such as food preparation, hand washing, bathing, cleaning, dishwashing, laundry and disposal of bodily waste. This may include a plan for relocating residents to a facility with a water supply that satisfies Paragraph (a) of this Rule. The amount of water provided for uses other than drinking may be reduced if the plan includes alternatives for water use for services such as laundry and dishwashing. If an institution's primary water supply or back up water supply becomes non-potable then the water sources within the institution, such as sink faucets, assessment determines that tap water is not to be used for drinking, sources shall be prominently labeled or hooded to restrict prevent their use and the administrator shall provide potable water for use by the institution's residents and employees. shall be provided.

Authority G.S. 130A-235.

### 15A NCAC 18A .1314 DRINKING WATER FACILITIES: ICE HANDLING

(a) Drinking fountains shall be of sanitary angle jet design, kept clean clean, and in good repair, properly regulated. All multi use utensils used for service of water in patients' rooms, including glasses, pitchers, and drinking tubes, shall be cleaned and sanitized before being used by any other individuals. Disposable

water pitchers shall be marked with the patient's name, used only by that patient and shall be disposed of and replaced when visibly soiled.

(b) Multi-use utensils for service of water and ice shall be kept clean and in good repair and shall be sanitized before being provided to a resident for use. Disposable, single service utensils shall be used by only one person.

(c) Ice shall be handled, transported, stored, and dispensed in such a manner as to be protected against contamination, physical, chemical, and biological contamination and shall be kept clean. Ice machines, buckets, other containers, and scoops shall be cleaned on a regular schedule such that they are kept clean and free of scum, rust, mold or other contamination. Ice machines, buckets, other containers and scoops shall be maintained in good repair, repair and shall be protected from the elements, splash, drip, dust, vermin, other contamination, and from use by unauthorized personnel. Ice machines and storage chests which are accessible to patients residents, guests, or the public shall provide ice through automatic ice dispensing equipment which prevents the contamination of stored ice, and shall not permit ice to be accessed using a scoop or bucket.

Authority G.S. 130A-235.

### 15A NCAC 18A .1315 LIQUID WASTES

(a) All wastewater sewage originating from the institution shall be disposed of in accordance using a publicly operated sewage treatment plant or an individual sewage disposal system that meets the requirements of Section .1900 of this Subchapter, with 15A NCAC 18A .1900 or 15A NCAC 02H .0200.

(b) Mop basins or mop sinks shall be used to wash mops and dispose of the water used for mopping.

Authority G.S. 130A-235.

### 15A NCAC 18A .1316 SOLID WASTES WASTES: PREMISES: MEDICAL WASTES

(a) All solid wastes containing food scraps or other decomposable putrescible materials shall, prior to disposal, shall be kept in leak-proof, non-absorbent containers, such as standard garbage cans, containers which shall be kept covered with tight-fitting lids when filled or stored, or not in use, continual use; provided that such containers need not be covered when stored in a special vermin proofed room, such as a refrigerated garbage room, or enclosure.

(b) All dry rubbish (including scrap paper, cardboard boxes, packing crates, etc.) Refuse, recyclables, and returnables shall be stored in containers, rooms, or areas designated areas, for the storage of refuse, recyclables, and returnables.

(c) The rooms, enclosures, designated rooms areas, and containers described in Paragraph (b) of this Rule shall be adequate for the storage of all solid wastes accumulating on the premises. have the capacity to store the institution's refuse, recyclables, and returnables and shall be kept clean. Cleaning facilities for waste containers used to store food scraps, putrescible materials, refuse, recyclables, and returnables shall be provided. Containers, rooms, or designated areas shall be kept clean.

(d) ~~All solid wastes shall be disposed of with sufficient frequency and in such a manner as to prevent insect breeding or public health nuisances. An institution's exterior premises, including parking lots, lawns, and walkways, and interior premises within the institution's building or buildings, shall be kept free of garbage, solid waste, yard trash, and conditions that attract or harbor pests.~~

(e) Medical wastes shall be handled and disposed of as required in North Carolina "Solid Waste Management Rules" 15A NCAC 13B .1200. ~~1200 Medical Waste Management.~~

*Authority G.S. 130A-235.*

**15A NCAC 18A .1317 VERMIN PEST CONTROL:  
PREMISES: ANIMAL MAINTENANCE PESTICIDES**

(a) ~~Effective measures shall be taken to keep flies, rodents, cockroaches, and other vermin out of the establishment and to prevent their breeding or presence on the premises. All openings Pests shall not be present in an institution's building or buildings. Openings to the outside of an institution's building or buildings the outer air shall be protected against the entrance of flies and other flying insects by equipped with self-closing doors, doors that are flush with the door frame when closed, closed windows, 16 mesh or finer screening, window screening on windows that can be opened, or controlled air currents, or other effective means. currents to prevent pests from entering the building or buildings.~~

(b) ~~Only those pesticides that are registered in accordance with 40 C.F.R. 152 and G.S. 143-442 shall be used to control pests, which have been approved for a specific use and registered with the Environmental Protection Agency and with the North Carolina Department of Agriculture in accordance with the "Federal Insecticide, Fungicide and Rodenticide Act" and the "North Carolina Pesticide Law". Such pesticides Pesticides shall be used used, handled, and stored as directed on in accordance with the instructions on the manufacturer's label. label and shall be so handled and stored as to avoid health hazards.~~

(c) ~~The premises under control of the management shall be kept neat, clean, and free of litter. There shall be no fly or mosquito breeding places, rodent harborages, or undrained areas on the premises.~~

(d) ~~Cleaning shall minimize accumulation of feces and other allergens generated by insects and other vermin.~~

(e) ~~Animal pens, litter boxes, bird cages and other areas on the premises shall be cleaned to minimize accumulation of animal wastes, pet dander and allergens.~~

(f) ~~Copies of veterinary records for all resident pets shall be kept on the premises.~~

*Authority G.S. 130A-235.*

**15A NCAC 18A .1318 MEDICAL SUPPLIES  
MISCELLANEOUS**

(a) ~~Suitable rooms or spaces shall be provided for the storage of all necessary equipment, furniture and supplies, and kept clean. All patient care or consumable items shall be stored at least eight inches above the floor to prevent water contamination from cleaning floors and shall not be stored below exposed sewer lines.~~

(b) ~~Mop receptors or sinks shall be provided and used for the cleaning of mops and the disposal of mop water. Other plumbing fixtures shall not be used for these purposes.~~

(a)(c) ~~Medication carts shall be kept clean, cleaned when visibly soiled. Food and utensils Food, utensils, medications, and medication dispensing equipment used on medication carts shall be kept clean, handled in a sanitary manner. Unused medication eups shall be kept covered or inverted. Sharps containers located on medication carts shall be attached affixed or secured to the medication card to prevent the sharps contained from spilling. spillage.~~

(b)(d) ~~Feeding bags, tubes syringes syringes, and oral suction catheters shall be used in accordance with the manufacturer's instructions, which are reused shall be labeled with the patient's name and date opened, shall be disassembled and rinsed after each use, and shall be disposed of within 24 hours of first use. Tube feeding bags shall be changed within the time period specified by the manufacturer. Oral suction catheters which are reused shall be flushed after each use and shall be disposed of within 24 hours of first use. Feeding syringes and oral suction catheters shall be stored in a clean container.~~

*Authority G.S. 130A-235.*

**15A NCAC 18A .1319 FURNISHINGS AND LAUNDRY  
PATIENT CONTACT ITEMS**

(a) ~~All furniture, bed springs, mattresses, sleeping mats, draperies, curtains, shades, venetian blinds, or other furnishings in institutions Furnishings in an institution, including furniture, curtains, rugs, and blinds shall be kept clean and in good repair. Mattresses shall be kept clean, dry, dry and in good repair, odor free.~~

(b) ~~Clean bed linen Bed linens that are provided by the institution for use by residents shall be free from holes and tears. A resident's bed linens in good repair shall be provided for each individual and shall be changed when no longer clean, soiled. Soiled linen Linens that are not clean shall be placed in a covered container or bag devoted to this purpose at the point of use and stored in the covered container or bag until sanitized in accordance with Paragraph (c) of this Rule and handled so as to contain and minimize aerosolization of and exposure to any waste products. Such covered containers or bags shall be kept clean between uses and labeled to indicate the contents. Linens that are not clean shall be handled and stored separately from sanitized linens. Soiled laundry shall be handled and stored separately from clean laundry using separate cleanable carts or bags. Carts used for soiled laundry shall be labeled for soiled laundry use only.~~

(c) ~~Linens provided by the institution that are not clean shall be sanitized in accordance with this paragraph. When hot water in washing machines is used to sanitize linens provided by the institution, the washing machines shall be operated in accordance with the manufacturer's instructions. When chemicals are used to sanitize linens provided by the institution, linens shall be washed in accordance with the following:~~

- (1) ~~using a solution of at least 50 parts per million chlorine;~~
- (2) ~~using laundry sanitizer that is registered in accordance with 40 C.F.R. 152 and that is used in accordance with the manufacturer's instructions; or~~
- (3) ~~using a chemical or laundering process that produces a 99.9 percent reduction of pathogens.~~

If hot water is used, linen including sheets, pillow cases, absorbent pads, towels and wash cloths provided by the facility shall be washed with a detergent in water at least 71°C (160°F) for 25 minutes. If low temperature (less than 71° C) laundry cycles are used, linens shall be washed in at least 50 parts per million chlorine or an EPA Listed laundry sanitizer shall be used in accordance with the manufacturer's instructions. This shall not preclude the approval of other chemicals or processes shown to produce a 99.9 percent reduction of the pathogens *Staphylococcus aureus*, *Klebsiella pneumoniae* and *Pseudomonas aeruginosa* on laundry. The wash temperatures and chemicals required for linens shall not apply to personal laundry provided and used by a resident. Clean linen shall be stored and handled in a separate room or area, or in another manner that will prevent contamination of clean linen. Laundry areas and equipment shall be kept clean.

(d) Clothing and linens that are provided by a resident for the resident's personal use shall be that resident's personal laundry. Personal laundry that is not clean shall be kept separate from clean clothing and linens using covered containers or bags that are labeled to indicate their contents and kept clean between uses. Containers or bags that are used to hold personal laundry that is not clean shall not be used for personal laundry. When a resident's personal laundry is combined with the personal laundry of one or more other residents and washed together by the institution, the combined personal laundry shall be washed in accordance with Paragraph (c) of this Rule.

(e) Laundry areas and equipment shall be kept clean.

(f)(e) Patient contact items Wheelchairs, walkers, lifts, and other mobility equipment shall be kept clean and sanitized between uses by different residents, in good repair. Soiled patient contact items shall be taken to a designated area for cleaning and shall be stored separately from clean items. A room or area shall be provided for cleaning patient contact equipment such as wheelchairs. Patient contact items such as diaper changing surfaces that become contaminated during use shall be cleaned and disinfected after each use. Shared toys subject to mouthing shall be washed and rinsed with soap and water and disinfected with 70 percent alcohol or 100 parts per million chlorine after each day's use. Shared plush toys shall be laundered after each day's use. Shared toys that are not washable shall be gas sterilized or disposed of when soiled.

Authority G.S. 130A-235.

#### **15A NCAC 18A .1320 ACTIVITY KITCHENS, REHABILITATION KITCHENS, AND NOURISHMENT STATIONS FOOD SERVICE UTENSILS AND EQUIPMENT**

(a) All food service equipment and utensils shall be kept clean and in good repair. Institutions shall be allowed to use domestic food service equipment in activity kitchens, rehabilitation kitchens, and nourishment stations, used in institutions for preparing meals for 13 or more people shall comply with the requirements of "Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments" 15A NCAC 18A .2600. Residential style rehabilitation activity kitchens with domestic utensils and equipment may be used by groups of 12 or less people to prepare meals only for members of the group. Potentially hazardous foods prepared in rehabilitation activity kitchens shall

not be served to groups of more than 12 people. This shall not preclude the use of an activity kitchen as a serving area for meals eaten from a main kitchen and served to groups of 13 or more people in connection with a planned event from which the public is excluded. For planned events, the equipment in the activity kitchen may be used for heating prepared foods received from a main kitchen or a commercial source. Bread machines, soup kettles and other food contact items used at nutrition stations shall be so constructed as to be easily cleanable.

(b) Utensils that have been used to prepare, serve, or consume food or drink shall be returned to the dietary kitchen and shall be washed, rinsed, and sanitized. Notwithstanding the foregoing sentence, utensils may be washed, rinsed and sanitized at At activity kitchens or kitchens, rehabilitation kitchens, and nourishment nutrition stations, stations provisions shall be made for cleaning all food service utensils and equipment and sanitizing utensils and equipment not continuously subjected to high temperatures. Where utensils and equipment are not returned to a central kitchen for cleaning, designated nutrition stations shall be that are equipped with the following:

- (1) at least a two compartment sink with 24 inch drainboards or counter top space at each end of the sink for handling used utensils dirty items and air drying clean and sanitized utensils. items. Sinks The sinks shall be of sufficient size to submerge, wash, rinse and sanitize utensils; or
- (2) a dishwashing machine approved by NSF International, utensils and equipment. At nutrition stations, dish machines listed with NSF International shall meet this provision.

(c) Any area where food is portioned, served, served or handled shall be equipped with a separate handwash lavatory handwashing facility with a hot and cold mixing faucet, soap, soap and single-use individual towels or hand drying device. Separate handwashing lavatories shall not be required for activity kitchens used only by groups of 12 or less people.

(d)(e) All kitchenware and The food-contact surfaces of cooking and baking equipment, including microwave ovens, shall be kept clean, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drink, and all food storage utensils, shall be cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once each day. All utensils and food contact surfaces of equipment used in the preparation, service, display, or storage of potentially hazardous foods shall be cleaned and sanitized prior to each use. Non food contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.

Authority G.S. 130A-235.

#### **15A NCAC 18A .1321 FOOD SUPPLIES**

(a) All food and food supplies provided by an institution for consumption by residents shall be from sources that comply with North Carolina "Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments" approved sources, stored, and handled as set forth in Section 15A NCAC 18A .2600 of this Subchapter, and shall be clean, free from spoilage, free

~~from adulteration and misbranding, and safe for human consumption.~~

(b) Food brought from home by employees or visitors of patients or residents shall be stored separately from the institution's food supply ~~and shall be labeled with the name of the person to receive the food and the date the food was brought in and shall be kept only as long as it is clean, and free from spoilage, as described in Paragraph (a) of this Rule.~~ Such food shall be labeled with the name of the resident or employee that the food belongs to and the date the food was brought into the institution. Labeling shall not be required for food items stored in employee-designated or individual resident's refrigerators or rooms.

*Authority G.S. 130A-235.*

**15A NCAC 18A .1323 FOOD PROTECTION IN  
ACTIVITY KITCHENS, REHABILITATION KITCHENS,  
AND NOURISHMENT STATIONS**

(a) ~~All TCS food shall be maintained at temperatures required by Section .2600 of this Subchapter during storage, preparation, transportation, display, and service of the TCS food. Time as a public health control may be used as specified in Section .2600 of this Subchapter, except that written procedures shall not be required. All food while being stored, prepared, transported, displayed, and served, shall be protected from contamination. All perishable foods shall be stored at temperatures which will protect against spoilage. All potentially hazardous food shall be maintained at safe temperatures (45 degrees F. or below, or 140 degrees F. or above) except during necessary periods of preparation and serving. Potentially hazardous foods served shall be either consumed or discarded within two hours of being removed from temperature control. Medications shall be stored in a manner which will not contaminate food or food products such as in separate covered containers or in separate refrigerators.~~

(b) ~~Hot and cold holding equipment shall be used to maintain required temperatures for TCS food. Conveniently located refrigeration units, hot food storage and display units and effective insulated units shall be provided as needed to assure the maintenance of all food at required temperatures during storage, preparation, display, service, and transportation. Each refrigeration unit shall be provided with an indicating thermometer that is accurate to  $\pm 3$  degrees Fahrenheit or  $\pm 1.5$  degrees Celsius, of such type and so situated that the thermometer can be easily read except that indicating thermometers shall not be required for food iced in coolers for transport.~~

(c) ~~Containers of food~~ Food shall be stored at least six inches above the floor, in a clean, dry location, and on clean racks, dollies, slatted shelves, or other clean surfaces in such a manner as to be protected from splash or other contamination.

(d) No live animals shall be allowed in any room where food is prepared or stored. Live animals shall be ~~allowed in dining areas if their presence will not result in contamination of food, clean equipment, utensils, linens, and unwrapped single service and single-use articles in the following situations: permitted in an institution's dining areas in the following situations and only if the live animal does not come into physical contact with institution employees engaged in the preparation or handling of food, serving dishes, utensils, tableware, linens, unwrapped single service and~~

single use articles, food contact surfaces, or other food service items:

- (1) Fish or crustacea in aquariums or display tanks, or other animals in enclosed terrariums or glass enclosed aviaries;
- (2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
- (3) Service animals accompanying individuals with disabilities in areas that are not used for food preparation; and In areas that are not used for food preparation such as dining and sales areas, support animals such as guide dogs that are trained to assist an employee or other person who is handicapped, are controlled by the handicapped employee or person, and are not allowed to be on seats or tables; and
- (4) Dogs (Canis lupus familiaris) and cats (Feliscatus) in outdoor dining areas provided that dogs and cats are physically restrained and do not pass through any indoor dining areas of the facility. Pets in the common dining areas of group residences at times other than during meals if:
  - (A) Effective partitioning or self-closing doors prevent pets from entering food storage and food preparation areas;
  - (B) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and
  - (C) Dining areas including tables, countertops, and similar surfaces are cleaned after all pets have left the area and before the next meal service.

(e) Notwithstanding Paragraph (d) of this Rule, and except in accordance with applicable law, nothing in this Rule shall prohibit an institution from restricting live animals in dining areas.

*Authority G.S. 130A-235.*

**15A NCAC 18A .1324 EMPLOYEES**

(a) ~~While on duty, at work, all institution employees shall wear visibly clean outer clothing, clothing and shall be clean as to their persons. No employee shall use tobacco in any form while engaged in the preparation and handling of food.~~ Employees shall wash or decontaminate their hands: hands as set forth in Paragraph

(b):

- (1) before beginning work;
- (2) after each visit to the toilet;
- (3) before and after patient resident contact, including using an oral feeding feeding; tube;
- (4) after contact with a source of microorganisms (body fluids and substances, mucous membranes, nonintact skin, inanimate objects that are likely to be contaminated); coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking; and

(5) after removing gloves.

(b) Institution employees shall wash their hands in a handwashing sink using the handwashing method required for food employees in Section .2600 of this Subchapter. When hands are visibly soiled, routine handwashing shall include a vigorous rubbing together of all surfaces of lathered hands for at least 10 seconds followed by thorough rinsing under a stream of water and drying with individual disposable towels or hand drying devices. When hands are not visibly soiled, clean, the use of alcohol-based hand antiseptics with alcohol-based hand rubs shall be acceptable for decontamination of hands. In the event of interruption of the institution's water supply or when in settings where handwashing facilities are inadequate or inaccessible, hand decontamination can be achieved by using detergent containing towelettes towelettes and alcohol-based hand rubs. antiseptics.

(c) Institution employees shall comply with the requirements for exclusion from work and restriction due to communicable disease or illness required for food employees as set forth in Section .2600 of this Subchapter. No person who has a communicable or infectious disease that can be transmitted by foods, or who knowingly is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or an acute respiratory infection with cough or nasal discharge, shall work in food service in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces, with disease-causing organisms or transmitting the illness to other persons.

(d) The institution shall have gloves, personal protective equipment, disinfectant, individual disposable towels, and a coagulating agent on-site for employees to use and a written procedure for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the institution. The procedure shall specify the actions that employees shall take to minimize the exposure of employees, residents, guests, food, and additional surfaces to vomitus or fecal matter.

*Authority G.S. 130A-235.*

#### **15A NCAC 18A .1327 INCORPORATED RULES**

For purposes of this Section, 15A NCAC 13B .1200, 15A NCAC 18A .1700, 15A NCAC 18A .2600, and 15A NCAC 18C, are hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at <http://reports.oah.state.nc.us/ncac.asp>.

~~(a) The North Carolina "Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments" 15A NCAC 18A .2600 are incorporated by reference including any subsequent amendments or editions. This material is available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, NC. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no cost.~~

~~(b) The North Carolina "Rules Governing Public Water Systems" 15A NCAC 18C are incorporated by reference including any subsequent amendments or editions. This material is available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital~~

~~Boulevard, Raleigh, NC. Copies may be obtained from Public Water Supply Section, 1634 Mail Service Center, Raleigh, NC 27699-1634 at no cost.~~

~~(c) The North Carolina "Rules Governing Protection of Water Supplies" 15A NCAC 18A .1700 are incorporated by reference including any subsequent amendments or editions. This material is available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, NC. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no cost.~~

~~(d) The North Carolina "Solid Waste Rules" 15A NCAC 13B .1200 Medical Waste Management are incorporated by reference including any subsequent amendments or editions. This material is available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, NC. Copies may be obtained from Solid Waste Section, 1646 Mail Service Center, Raleigh NC 27699-1646 at a cost of nine dollars (\$9.00).~~

~~(e) The North Carolina "Rules Governing Grade A Milk Sanitation" 15A NCAC 18A .1200 are incorporated by reference including any subsequent amendments or editions. This material is available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, NC. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no cost.~~

*Authority G.S. 130A-235.*

### **TITLE 20 – OFFICE OF THE STATE TREASURER**

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Teachers' and State Employees' Retirement System Board of Trustees and the Local Governmental Employees' Retirement System Board of Trustees intend to adopt the rule cited as 20 NCAC 02A .0505, amend the rules cited as 20 NCAC 02A .0101, .0102, .0201, .0202, .0302, .0503; 02M .0101, .0102, .0201, .0202, .0206, .0301-.0303, .0305, .0307, repeal the rules cited as 20 NCAC 02M .0104, .0304, readopt with substantive changes the rules cited as 20 NCAC 02A .0301, .0401; 02L .0103, readopt without substantive changes the rules cited as 20 NCAC 02A .0103, .0104, .0504; 02L .0101 and repeal through readoption the rules cited as 20 NCAC 02A .0303; 02L .0202, and .0302.*

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.nctreasurer.com/about/transparency/commitment-transparency/nc-administrative-code-rules>

**Proposed Effective Date:** January 1, 2023



**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): Submit a written request for public hearing within 15 days after publication of the Notice of Text to: Dept of State Treasurer, Attn: Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604 or DST.NCAC@nctreasurer.com.*

**Reason for Proposed Action:** *These proposed rule changes are being made as part of the Teachers' and State Employees' Retirement System (TSERS) Board of Trustees' and Local Governmental Employees' Retirement System (LGERS) Boards of Trustees' re adoption phase of the decennial review process. Those rules administered by both Boards and identified as being "necessary" requiring re adoption by December 31, 2022 are included in this rules action. Those rules are either being 1) readopted 'as is;' 2) readopted with substantive changes; 3) readopted without substantive changes; or 4) repealed.*

*In addition, the Boards are seeking to simplify rules related to statutory provisions requiring that service purchases include an administrative fee to be set by the Boards. The Boards are seeking to do this by adopting a new single rule covering all such situations of service purchases and separately repealing multiple current rules administered by each board individually that cover service purchase situations.*

*Some rules (not identified as 'necessary' in the first phase of decennial review) are proposed for amendments to conform with statutory requirements, to remove unnecessary words or phrases and provide clarification. In addition, some rules are being repealed.*

**Comments may be submitted to:** *Laura Rowe, Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604; email DST.NCAC@nctreasurer.com*

**Comment period ends:** *August 1, 2022*

**Procedure for Subjecting a Proposed Rule to Legislative**

**Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☒ State funds affected  
☒ Local funds affected

- ☐ Substantial economic impact (>= \$1,000,000)  
☒ Approved by OSBM  
☐ No fiscal note required

**CHAPTER 02 - RETIREMENT SYSTEMS**

**SUBCHAPTER 02A - DIVISIONAL RULES**

**SECTION .0100 - ORGANIZATIONAL RULES**

**20 NCAC 02A .0101 ORGANIZATION: AUTHORITY**

The ~~retirement systems division~~ Retirement Systems Division of the Department of State Treasurer provides the staffing for the administration of the following agencies. The agencies and the statutory authority of each are:

- (1) Teachers' and State Employees' Retirement System of North Carolina -- G.S. 135, Article 1;
- (2) North Carolina Local Governmental Employees' Retirement System -- G.S. 128, Article 3;
- (3) Public Employees' Social Security Agency -- G.S. 135, Article 2; G.S. 143A, Article 4;
- (4) Legislative Retirement System of North Carolina -- G.S. 120-4, Article 1A;
- (5) Consolidated Judicial Retirement System of N.C. -- G.S. 135, Article 4;
- (6) Supplemental Retirement Income Plan of North Carolina -- G.S. 135, Article 5;
- (7) Disability Income Plan of North Carolina -- G.S. 135, Article 6;
- (8) ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund -- G.S. 58, Article 86;
- (9) Register of Deeds' Supplemental Pension Fund -- G.S. 161, Article 3.
- (10) National Guard Pension Fund -- G.S. 127A, Article 3.

*Authority G.S. 128-28(g); 135-6(f).*

**20 NCAC 02A .0102 EXERCISE OF AUTHORITY**

All of the above named agencies, with the exception of the ~~N.C.~~ Public Employees' Social Security Agency, exercise their prescribed statutory powers independently of the State Treasurer. However, those functions such as planning, organizing, staffing, directing, coordinating, ~~reporting~~ reporting, and budgeting are performed under the direction and supervision of the State Treasurer. In the case of the N.C. Public Employees' Social Security Agency, all its prescribed statutory authority, powers, duties, ~~duties~~ and functions, including rule-making, are vested in the State Treasurer.

*Authority G.S. 128-28(g); 135-6(f).*

**20 NCAC 02A .0103 DELEGATION OF AUTHORITY TO DIRECTOR (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02A .0104 EXERCISE OF EMPLOYER OPTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0200 - RULE-MAKING PROCEDURES**

**20 NCAC 02A .0201 ESTABLISHMENT OF PROCEDURAL RIGHTS**

The rules in 20 NCAC 01F .0100 establish rule-making procedures for the Retirement Systems Division of the Department of State Treasurer. All correspondence with the Retirement Systems Division shall be addressed to:  
Director of the Retirement Systems  
Longleaf Building  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604.

*Authority G.S. 128-28(g); 135-6(f).*

**20 NCAC 02A .0202 DEFINITIONS**

The following definitions apply to rule-making in 20 NCAC 01F .0100:

- (1) The "Division" is the Retirement Systems Division and includes the agencies enumerated in 20 NCAC 2A .0101.
- (2) The "~~Chief Officer~~" "Director" is the Director of the Retirement ~~Systems~~. Systems Division.

*Authority G.S. 128-28(g); 135-6(f).*

**SECTION .0300 - DECLARATORY RULINGS**

**20 NCAC 02A .0301 ESTABLISHMENT OF PROCEDURAL RIGHTS**

The rules in 20 NCAC 01F .0200 establish declaratory ruling procedures for the Retirement Systems Division of the Department of State Treasurer, with the following exception. All requests for declaratory rulings from the Retirement Systems Division shall be in writing and mailed to the attention of the Director at the following address:

Director of the Retirement Systems Division  
Department of State Treasurer  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604.

*Authority G.S. 128-28(g); 135-6(f).*

**20 NCAC 02A .0302 DEFINITIONS**

The following definitions apply to declaratory rulings in 20 NCAC 01F .0200:

- (1) The "Division" is the Retirement Systems Division;
- (2) The "~~Chief Officer~~" "Director" is the Director of the Retirement ~~Systems~~. Systems Division.

*Authority G.S. 128-28(g); 135-6(f).*

**20 NCAC 02A .0303 RECONSIDERATION OF DECLARATORY RULINGS**

(a) ~~Whenever the director of the retirement systems has issued a declaratory ruling pursuant to this Section, the petitioner may, at his option, request that the ruling be reconsidered by the appropriate governing board in a letter mailed or delivered to the director of the retirement systems within 10 days of the receipt of such declaratory ruling. In the event the petitioner requests reconsideration by the appropriate governing board, the petitioner shall be entitled to appear concerning the ruling before the appropriate governing board at a regularly scheduled meeting. The governing board in question shall reconsider the ruling and may readopt the same ruling or adopt a different ruling.~~  
 (b) ~~In the event the petitioner does not request reconsideration by the appropriate governing board as provided in (a) of this Rule, the declaratory ruling issued by the director of the retirement systems shall be considered the final declaratory ruling of the said governing board.~~

*Authority G.S. 128-28(g); 135-6(f).*

**SECTION .0400 - CONTESTED CASE PROCEDURES**

**20 NCAC 02A .0401 ESTABLISHMENT OF PROCEDURAL RIGHTS**

Article 3 of G.S. 150B establishes ~~The rules in 20 NCAC 1F .0300 establish~~ contested case procedures for the Retirement Systems Division of the Department of State Treasurer. ~~with following amendments:~~ All correspondence with the Retirement Systems Division shall be addressed to:

Director of the Retirement Systems Division  
Department of State Treasurer  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604.

- (1) Informal resolution of the problem begins when a person calls, writes, or visits the ~~state retirement~~ Retirement system Systems Division's Member Services section ~~office~~ and describes the problem to a ~~counselor/field~~ representative;
- (2) If the problem is not resolved during this initial contact, the person may request an administrative review of the Division's decision or action; will be referred to the administrator of the appropriate section;
- (3) ~~If the problem is not resolved at this level, the person may discuss it with the Assistant Director of the Retirement Systems;~~
- (4)(3) The If the aggrieved person is dissatisfied at this point, he may discuss his difficulty with the Director of the Retirement Systems. Systems, or the Director's designee, will issue a Final Agency Decision in writing, which will serve as the "agency decision" for purposes of G.S. 150B-23(f).

*Authority G.S. 128-28(g); 135-6(f); 150B-23.*

**SECTION .0500 - GENERAL PROCEDURES**

**20 NCAC 02A .0503 DUAL  
MEMBERSHIP - COMPUTATION OF SERVICE AND  
BENEFITS**

- (a) This Rule applies to any individual case in which the member had one or more periods of dual membership in those rare cases which are permitted by law. Dual membership means membership in two systems, at the same time, by virtue of the same position.
- (b) Eligibility shall be established for the death benefit, survivor's alternate benefit, service, early or disability retirement or other benefits which are based on creditable or membership service for both systems whenever eligibility is established in either one of the systems.
- (c) A statute permitting transfer of membership and prior service shall apply when a person becomes a member of a ~~retirement~~ Retirement system System to which the membership and prior service may be transferred from one or the other of the systems in which the member had dual membership. This shall apply only where the member is paid under only one ~~retirement~~ Retirement system System for services rendered subsequent to the last day of service in a position in which the member had dual membership.
- (d) Death ~~benefit~~ benefits for active members shall be ~~limited to twenty thousand dollars (\$20,000) and shall be~~ allocated pro rata between systems based on the total compensation paid during the eligibility period.
- (e) Other benefits shall be calculated by:

- (1) Compute "Average Final Compensation" on the basis of compensation on which the member would have contributed had the member ~~he~~ not been earning "split" service as an employee with dual membership.
- (2) Compute creditable service as follows:
  - (A) the number of months of creditable service the member earned or acquired which were based on compensation for service in only one of the systems; plus
  - (B) the total of the fractional months earned by the member in each of the systems during periods of dual membership; where
  - (C) the fractional months during periods of dual membership is equal to the same fraction of a month that the compensation reported to the system bears to the total compensation reported to all systems. The fractional months are to be computed as follows. First, identify the total compensation earned by the member in each of the systems during periods of dual membership, as determined in Part (e)(2)(B) of this Rule. Second, add together the total compensation earned by the member in each of the systems during periods of dual membership, as determined in Part (e)(2)(B) of this Rule, to produce a Grand Total. Third,

divide the total compensation earned by the member in each of the systems during periods of dual membership, as determined in Part (e)(2)(B) of this Rule, by the Grand Total, as determined in the previous sentence, to produce a factor, carried to the fourth decimal place, known as the Modification Factor, for each system. Fourth, multiply the total of the fractional months, as determined in Part (e)(2)(B) of this Rule, by the Modification Factor for each system, as determined in the previous sentence, to determine the actual creditable service allowed for each system during periods of dual membership.

- (3) Compute the annual allowance for a member by multiplying the average final compensation times the creditable service as computed in Subparagraphs (1) and (2) of this Paragraph.
- (4) Allocate the benefits to be paid from each system pro rata on share of creditable service in each system as computed in ~~(d)(2)~~ Subparagraph (e)(2) of this Rule.

(f) This Rule shall apply to any individual case in which a member with dual membership commenced retirement with one ~~retirement~~ Retirement system System prior to the effective date of this Rule and continued in service under the other ~~retirement~~ Retirement system System. In such cases, the retirement allowance of the member from the system with which ~~he~~ the member first retired shall be recomputed in accordance with this Rule and paid retroactively to the effective date of this Rule.

*Authority G.S. 128-28(g); 135-6(f).*

**20 NCAC 02A .0504 DIRECT DEPOSIT OF  
MONTHLY BENEFIT PAYMENTS (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02A .0505 ADMINISTRATIVE FEES FOR  
SERVICE PURCHASES**

- (a) This Rule applies to purchase of creditable service whenever a statutory provision prescribes that the calculation of the amount payable shall include an administrative fee to be set by the Board. An applicant shall be eligible to purchase creditable service under any such provision only after having met all requirements of eligibility for purchase as defined by law and by rules duly adopted.
- (b) An administrative fee in the amount of twenty-five dollars (\$25.00) for each payment shall be assessed members at the time of purchase as provided by law.

*Authority G.S. 128-28(g); 135-6(f).*

**SUBCHAPTER 02L - SEPARATE INSURANCE BENEFIT  
PLAN FOR STATE AND LOCAL GOVERNMENTAL  
LAW ENFORCEMENT OFFICERS**

**SECTION .0100 - GENERAL PROVISIONS**

**20 NCAC 02L .0101 GENERAL INFORMATION  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02L .0103 DEFINITIONS**

The following words as used in this Subchapter, unless a different meaning is clearly required by the context, shall have the following meanings:

- (1) ~~"Employer" shall mean the State of North Carolina and any city, town, county or other political subdivision thereof. "Medical Board" shall mean any of the Medical Boards established under G.S. 128-28(l), G.S. 135-6(k), or G.S. 135-102(d).~~
- (2) ~~"Officer" shall mean a law enforcement officer as defined in G.S. 128-21(11d) 143-166.30(a)(4) and G.S. 135-1(11c) 143-166.50(a)(3).~~
- (3) ~~"Officer Trainee" shall mean a cadet or officer trainee who is a full-time employee enrolled in training schools or academies of the state and any political subdivision thereof and who will become an officer at the completion of the training.~~
- (4) ~~"Participant" shall mean an officer or officer trainee trainee, who has established eligibility for benefits under the Separate Benefit Plan and who has obtained written approval for such eligibility.~~
- (5) ~~"Separate Insurance Benefit Plan" shall mean the employee welfare benefit plan created in G.S. 143-166.60.~~
- (6) ~~"Service" shall mean service as an officer for which compensation is paid.~~

*Authority G.S. 143-166.60.*

**SECTION .0200 - PARTICIPATION**

**20 NCAC 02L .0202 RETIRED MEMBERS**

(a) ~~If a participant ceases to be an officer, his participation shall be continued provided that such participant has had at least 20 years creditable service, and provided further, that such retirement is a bona fide separation from all law enforcement work in the state.~~

(b) ~~If a participant retires on account of a disability that resulted from bodily injuries sustained or from extreme physical exercise or from extreme physical activity experienced in the course and scope of his official duties as a law enforcement officer and while in the discharge of his official duty or duties, his participation shall be continued so long as such incapacity continues, provided that:~~

- (1) ~~the disability retirement occurs within 12 months from the date on which the injuries or extreme exercise occurred; that~~
- (2) ~~the injury or the condition resulting from extreme exercise or activity was reported to and~~

~~treated by a licensed physician within 10 days of the occurrence; and that~~

- (3) ~~medical reports acceptable to the medical board clearly show that the participant is mentally or physically totally incapacitated for the further performance of duty, that such disability is likely to be permanent, and that such participant should be retired.~~

~~Final certification of disability shall be made by the medical board serving the Law Enforcement Officers' Retirement System.~~

~~(c) If a participant with five or more years creditable service retires on account of an ordinary disability, his participation shall be continued so long as such incapacity continues, provided that medical reports acceptable to the medical board clearly show that the participant is mentally or physically totally incapacitated for the further performance of duty, that such disability is likely to be permanent, and that such participant should be retired. Final certification of disability shall be made by the medical board serving the Law Enforcement Officers' Retirement System.~~

~~(d) If a participant with more than one but less than five years of creditable service ceases to be employed as a law enforcement officer because of an ordinary disability and expires within one year from the date on which his employment terminated, he shall have paid to his designated beneficiary, or if no designated beneficiary survives him to his estate the death benefit then paid on account of the death of a retired participant, provided that medical reports acceptable to the medical board clearly show that the disability did not exist at the time of acceptance of the officer as a participant and that the cause of death was a direct result of the mental or physical condition on which the termination of employment was based.~~

*Authority G.S. 143-166.60.*

**SECTION .0300 - BENEFITS**

**20 NCAC 02L .0302 ACCIDENT AND HOSPITAL BENEFITS**

~~Accident and hospital benefits shall be available in fixed amounts on and after 12:01 a.m., October 1, 1966, as set forth in a group policy approved by the board with monthly premiums on such policy being paid out of funds held by the separate benefit plan, providing that:~~

- (1) ~~the claimant has been accepted and is a participant in the separate benefit plan at the time of an accident or illness;~~
- (2) ~~in case of accident or illness the participant shall file a claim with the insuring company on forms provided by the insurer;~~
- (3) ~~all claims shall be handled between the participant and the insurer.~~

*Authority G.S. 143-166.60.*

**SUBCHAPTER 02M - CONTRIBUTORY DEATH BENEFIT FOR RETIRED MEMBERS**

**SECTION .0100 - DEFINITIONS AND GENERAL PROVISIONS**

**20 NCAC 02M .0101 DEFINITIONS**

The following definitions apply to the Contributory Death Benefit for Retired Members:

- (1) "Retired member" shall mean a former teacher, employee or official in receipt of a monthly retirement allowance or who has a terminated retirement allowance resulting from reemployment or an optional payment selection (~~Option 4~~) from the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, or Legislative Retirement System; ~~System or Legislative Retirement Fund~~; however, ~~retired member~~ "retired member" shall not mean any beneficiary in receipt of a monthly retirement allowance by reason of the death of a retired member or former teacher, employee or official.
- (2) "Member" shall mean a retired member of the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, Legislative Retirement System or Legislative Retirement Fund who has elected coverage and who makes continuous contributions under the Contributory Death Benefit for Retired Members.
- (3) "Surviving spouse" shall mean a living person who is legally married to a member covered under the Contributory Death Benefit for Retired Members at the date of death of the member.
- (4) "Legal representative" shall mean the administrator or executor of the estate of a member or the collector of funds for the estate of the member.
- (5) "Retirement system" shall mean the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, or Legislative Retirement System; ~~System or Legislative Retirement Fund~~.
- (6) ~~"Board Boards of Trustees" of the Contributory Death Benefit for Retired Members~~ shall mean the ~~Board Boards~~ of Trustees of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System; System, each acting in accordance with the provisions of G.S. 128-28(f1) and G.S. 135-6(e1).

Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g); 135-5(l).

**20 NCAC 02M .0102 AGENCY AND AUTHORITY OF DIRECTOR**

(a) The mailing address for agency acting on behalf of the Board of Trustees of the Contributory Death Benefit for Retired Members is the Retirement Systems Division, Department of State Treasurer, ~~Retirement Systems Division~~, 3200 Atlantic Avenue, Raleigh, North Carolina 27604.

(b) The Director of the Retirement Systems Division shall make decisions administratively as it relates to the Contributory Death Benefit for Retired Members in accordance with the statutes and rules and regulations adopted by the Board s of Trustees and previous decisions of the Boards of Trustees. Appeals may be made from the decisions of the ~~director~~ Director under the same procedures used for contested cases.

Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g); 135-5(l); 135-6(f); 135-64(g).

**20 NCAC 02M .0104 TIME AND DATE**

~~"Date and time" shall be the equivalent date and time for Raleigh, North Carolina, where and when it becomes necessary to establish a date and time for payment of benefits, payment or collection of contributions, effective dates of coverage and cancellation, and other matters related to the Contributory Death Benefit for Retired Members.~~

Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g); 135-5(1).

**SECTION .0200 - ELECTION AND CANCELLATION OF COVERAGE**

**20 NCAC 02M .0201 ELIGIBILITY TO ELECT COVERAGE**

(a) A retired member in receipt of a monthly retirement allowance as a former teacher, employee or official of more than one of the ~~retirement Retirement systems Systems~~ is eligible to elect coverage under each ~~retirement Retirement system System~~ from which the member receives a retirement benefit; however, if a retired member is receiving more than one retirement benefit from the same ~~retirement Retirement system, System, the member he~~ may elect coverage only on the basis of one retirement ~~benefit~~ benefit from that Retirement System.

(b) A former teacher, employee or official in receipt of disability benefits from the Disability Income Plan of North Carolina is not in receipt of a retirement allowance and is not eligible to elect coverage under the Contributory Death Benefit for Retired Members until such time as the disability benefit is converted to ~~a an unreduced~~ service retirement allowance.

Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g); 135-5(l).

**20 NCAC 02M .0202 WHEN FIRST ELIGIBLE**

A retired member's eligibility to make an election for coverage is based on the following:

- (1) If retired on or before June 1, 1988, the words "when first eligible" to make an election for

	coverage will mean 60 days from July 1, 1988	70	31
	or no later than September 1, 1988.	71	33
(2)	If retiring on or after July 1, 1988, the words	72	35
	"when first eligible" to make an election for	73	38
	coverage will mean 60 days from the effective	74	40
	date of retirement under the <del>retirement</del>	75	43
	<u>Retirement system.</u> <u>System.</u>	76	46
		77	49
Authority	G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g);	78	52
	135-5(1).	79	56
		80	59
<b>20 NCAC 02M .0206 REINSTATEMENT</b>		81	63
	Upon cancellation of coverage, coverage cannot be <del>reinstated</del>	82	67
	<u>reinstated</u> , nor can a retired member reapply for coverage.	83	71
		84	75
Authority	G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g);	85	80
	135-5(1).	86	84
		87	89
<b>SECTION .0300 - CONTRIBUTIONS AND BENEFITS</b>		88	94
		89	99
<b>20 NCAC 02M .0301 CONTRIBUTION RATES</b>		90	105
(a)	The monthly contribution rates shall be established by	91	110
	resolution of the Boards of Trustees as recommended by the	92	115
	consulting actuary. The consulting actuary in making a	93	120
	recommended schedule of monthly contribution rates shall take	94	125
	into consideration mortality experience, selection experience,	95	130
	actuarial interest rate assumption which may be different from the	96	140
	interest rate assumption used in the valuation of the liabilities of	97	150
	the <del>retirement</del> <u>Retirement system,</u> <u>System,</u> administrative and	98	160
	investment costs, and such other factors as may be appropriate in	99	170
	establishing such schedule of monthly contribution rates.	100 and over	200
(b)	The schedule of monthly contribution rates established by		
	resolution of the Boards of Trustees adopted on March 19, 1988,		
	is as follows:		
			The schedule of monthly contribution rates shall be applicable for
			members electing coverage effective on or after July 1, 1988 and
			shall remain in effect until such resolution, as duly adopted by the
			Boards of Trustees, revises such schedule of monthly contribution
			rates.
			(c) The Boards of Trustees may from time to time revise by
			resolution the schedule of monthly contribution rates as may be
			recommended by the consulting actuary for teachers, employees
			and officials retiring and electing an effective date of coverage
			after the effective date of the revision. Such revision may be, but
			is not required to be, applicable to members electing coverage
			prior to the effective date of the revision provided that such
			revised rates shall not be greater than the rates in effect at the
			effective date of coverage for those members electing an effective
			date of coverage prior to the effective date of the revision.
			Authority G.S. 120-4.10; 120-4.27; 128-27(12); 128-28(g);
			135-5(1); 135-6(f); 135-64(g).
			<b>20 NCAC 02M .0302 MEMBER CONTRIBUTION</b>
			(a) The monthly contribution rate paid by a member shall be
			based on the member's nearest age as of the effective date of
			coverage and the applicable rates as of that date as set by the
			Boards of Trustees and will remain the same as long as the
			coverage is in effect.
			(b) Any misstatement as to the age of the member which causes
			the contribution of the member to have been paid at a <u>greater</u>

~~higher or lesser lower~~ rate during the period of the coverage of the member not paid or refunded prior to the death of the member will result in any underpayment of contributions being offset against the death benefit and any overpayment of contributions being paid to the person or persons designated by the member or, if the member has not designated a beneficiary, to the surviving spouse, or if not survived by a designated beneficiary or spouse, to the or legal representative. ~~representative for the correct age of the member.~~

*Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l).*

**20 NCAC 02M .0303 PAYMENT OF CONTRIBUTION**

(a) The monthly contributions of members covered under the Contributory Death Benefit for Retired Members are to be paid monthly to the Contributory Death Benefit Trust for Retired Members beginning in the month in which coverage becomes effective and shall continue each month thereafter.

(b) Payment of the monthly contributions shall be deducted from a member's net monthly retirement allowance from the ~~retirement Retirement system System~~ if member's net monthly retirement allowance, after other required deductions, is sufficient to cover the cost of the contribution; however, if the net monthly retirement allowance from the ~~retirement Retirement system System~~ is not sufficient to cover the cost of the contribution, the Retirement Systems Division shall provide the member a Notice of Contribution Due within ten days after the determination of insufficiency with payment of monthly contributions due not later than the 25th of the month following the determination of insufficiency, and thereafter a Notice of Contribution Due shall be provided between the first and the fifth of each month with payment due on or before the 25th of that month.

(c) The contribution due for the month in which the member's death occurs is to be paid from the final monthly retirement benefit due in the month of death, or by payment from the member's surviving spouse or legal representative; provided that, if member's death occurs during the 24-month period from the effective date of coverage, the deduction and/or payment of the contribution for the month in which death occurs may be waived.

(d) Once coverage is elected, the required monthly contribution must be paid in order to maintain coverage regardless of any condition which might occur that would terminate or diminish the retirement benefit the retired member is receiving, such as reemployment or ~~and~~ the reduction or termination of retirement benefits by reason of ~~an optional payment plan~~ an optional form of retirement allowance selected by the retired member at retirement.

*Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l).*

**20 NCAC 02M .0304 AMOUNT OF BENEFIT PAYABLE**

~~(a) If the member's death occurs on or after the first day of the month following the 24th month of coverage for which the member has paid the required contributions, the amount of the benefit payable shall be five thousand dollars (\$5,000.00).~~

~~(b) If the member's death occurs prior to the first day of the month following the 24th month of coverage for which the member has made the required contributions, the amount of the benefit payable shall be the total of the monthly contributions made by the member plus interest as set by the Board of Trustees.~~

*Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l).*

**20 NCAC 02M .0305 PAYMENT OF INTEREST ON BENEFIT**

Interest payable on the monthly contributions of a member where member's death occurs prior to the first day of the month following the 24th month of coverage:

- (1) The annual rate of interest shall be set from time to time by resolution of the ~~Board~~ Boards of Trustees and, in setting such annual rate of interest, the ~~Board~~ Boards of Trustees may take into consideration the actuarial interest rate assumption, yields realized and anticipated on short-term investments, cost of investing and administration, and such other factors affecting interest rates as may be appropriate.
- (2) Such interest as set by the ~~Board~~ Boards of Trustees shall be computed on each monthly payment from the end of the month in which the monthly payment is paid and on the balance of the monthly contributions and interest at the beginning of the calendar year to the end of the month in which the member dies.
- (3) The interest rate established by resolution of the Boards of Trustees, adopted on January 28, 1988, is 6 1/2 percent.

*Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l).*

**20 NCAC 02M .0307 BENEFITS PAYABLE AFTER CANCELLATION**

Should death of a former member occur on or after the effective date of cancellation of coverage, benefits under the Contributory Death Benefit for Retired Members shall not be due and shall not be payable.

*Authority G.S. 120-4.10; 120-4.27; 128-27(l2); 128-28(g); 135-5(l).*

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Teachers' and State Employees' Retirement System Board of Trustees intends to amend the rules cited as 20 NCAC 02B .0101, .0803, repeal the rules cited as 20 NCAC 02B .0213, .0405, readopt with substantive changes the rules cited as 20 NCAC 02B .0202, .0210, .0302- .0305, .0307, .0401, .0701, .0706, .0806, .0905, .1004, .1006; 02F .0104, readopt without substantive changes the rules cited as 20 NCAC 02B .0211, .0301, .0308, .0402, .0404, .0501, .0502, .0504, .0510, .0802, .0804, .0805, .0807, .0810, .0902- .0904, .0906; 02F .0101,*

.0107 repeal through readoption the rules cited as 20 NCAC 02B .0503, .0801, .0901, .1003, .1005, .1007, .1101, .1102, .1104, .1204, .1205, .1207; and 02F .0108.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://www.nctreasurer.com/about/transparency/commitment-transparency/nc-administrative-code-rules>

**Proposed Effective Date:** January 1, 2023

**Instructions on How to Demand a Public Hearing:** (must be requested in writing within 15 days of notice): Submit a written request for public hearing within 15 days after publication of the Notice of Text to: Dept of State Treasurer, Attn: Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604 or DST.NCAC@nctreasurer.com.

**Reason for Proposed Action:** These proposed rule changes are being made as part of the Teachers' and State Employees' Retirement System (TSERS) Board of Trustees' readoption phase of the decennial review process. Those rules administered by the TSERS Board of Trustees and identified as being "necessary" requiring readoption by December 31, 2022 are included in this rules action. Those rules are either being 1) readopted 'as is;' 2) readopted with substantive changes; 3) readopted without substantive changes; or 4) repealed.

In addition, the TSERS Board of Trustees, as part of a joint action with the Local Governmental Employees' Retirement System (LGERS) Board of Trustees, is seeking to simplify rules related to statutory provisions requiring that service purchases include an administrative fee to be set by the TSERS Board. The Boards are seeking to do this by adopting a new single rule covering all such situations of service purchases. As part of this simplification, the TSERS Board of Trustees is seeking to repeal, through readoption, current rules it administers that cover service purchase situations.

Some rules (not identified as 'necessary' in the first phase of decennial review) are proposed for amendments to conform with statutory requirements, to remove unnecessary words or phrases or to provide clarification. Some rules are being repealed.

**Comments may be submitted to:** Laura Rowe, Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604; email DST.NCAC@nctreasurer.com

**Comment period ends:** August 1, 2022

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after

the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☒ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

## CHAPTER 02 - RETIREMENT SYSTEMS

### SUBCHAPTER 02B - TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

#### SECTION .0100 - GENERAL PROVISIONS

##### 20 NCAC 02B .0101 GENERAL INFORMATION

The following is general information about the Teachers' and State Employees' Retirement System:

- (1) The ~~chief officer~~ Director is the Director of the Retirement ~~Systems~~; Systems Division;
- (2) The mailing address is Retirement Systems Division, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604;
- (3) The office is located ~~in the Longleaf Building,~~ at 3200 Atlantic Avenue, Raleigh, North Carolina.

Authority G.S. 135-6(f).

#### SECTION .0200 - ADMINISTRATION

##### 20 NCAC 02B .0202 ACTUARIAL TABLES: RATES AND ASSUMPTIONS

(a) Actuarial tables and assumptions will be adopted by the ~~board~~ Board of trustees ~~Trustees~~ after the presentation of the recommendations of the actuary ~~by including the tables, rates, etc. in the minutes of the board with the resolution adopting said tables, rates or assumptions.~~ As provided by G.S. 150B-1(d), these actions of the Board of Trustees are not subject to rule-making requirements.

(b) The ~~director~~ Director ~~of the retirement systems~~ shall maintain a file of copies of all resolutions adopting tables, rates or assumptions and the current version of all tables as amended by the ~~board~~ Board of trustees ~~Trustees~~. The file shall be open and readily available to the public during regular office hours.



(e) This Rule includes but is not limited to the following actuarial tables and assumptions:

- (1) ~~interest rate assumptions;~~
- (2) ~~salary increase assumptions;~~
- (3) ~~required contribution rates;~~
- (4) ~~mortality assumptions;~~
- (5) ~~separation and retirement assumptions;~~
- (6) ~~joint and survivor tables;~~
- (7) ~~reserve transfer tables.~~

(4)(c) Tables, rates and assumptions shall become effective on the first day of the month following adoption, unless a specific effective date is included in the adopting resolution. If the specific date is included, the tables, rates or assumptions shall be effective as provided in the adopting resolution.

*Authority G.S. 135-6(m); 135-6(f).*

## **20 NCAC 02B .0210 MEDICAL BOARD**

In accordance with the authority contained in G.S. 135-6(k) membership of the ~~medical~~ Medical Board ~~Board is increased from three to~~ consists of five physicians with a quorum of three being required at meetings approving applications for disability retirement.

*Authority G.S. 135-6(k); 135-6(f).*

## **20 NCAC 02B .0211 OPTIONAL RETIREMENT PROGRAM (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

### **20 NCAC 02B .0213 DISABILITY RETIREMENT ALLOWANCE DEFINED**

~~A member shall be deemed to have been "entitled to receive a disability retirement allowance" if a proper application for disability retirement allowance was received before his death, if he had five or more years of creditable service, if the medical board, after a medical examination of such member pursuant to G.S. 135-5(c), shall certify that such member was mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and was continuous thereafter, that such incapacity was likely to be permanent, and that such member should be or should have been retired, and if all other requirements for disability retirement pursuant to G.S. 135-5(c) had been met except that the member need not live to the actual date of retirement.~~

*Authority G.S. 135-5(1)(3).*

## **20 NCAC 02B .0301 DESIGNATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

### **SECTION .0300 - BENEFICIARIES**

#### **20 NCAC 02B .0302 PRINCIPAL BENEFICIARY**

(a) More than one principal beneficiary may be ~~named~~ designated for the return of accumulated contributions under the provisions of G.S. 135-5(f) to share equally. In the event of the death of any so designated for the return of accumulated contributions, ~~named~~, those surviving shall share equally in the total benefits. However,

if there is only one living designated principal beneficiary for the return of accumulated contributions at the member's death and the member has met all other requirements under the provisions of G.S. 135-5(m), the designated principal beneficiary may elect to receive the alternative benefit under the provisions of G.S. 135-5(m).

(b) More than one principal beneficiary may be designated for the death benefit of an active member or a retired member under the provisions of G.S. 135-5(l) to share equally. In the event of the death of any so designated principal beneficiary(ies) for the death benefit of an active member or retired member, those surviving principal beneficiary(ies) shall share equally in the total benefits.

(c) More than one principal beneficiary may be designated for the guaranteed refund under the provisions of G.S. 135-5(g1) to share equally. In the event of the death of any so designated principal beneficiary(ies) for the guaranteed refund, those surviving principal beneficiary(ies) shall share equally in the total benefits.

*Authority G.S. 135-5(f); 135-5(g); 135-5(g1); 135-5(l); 135-5(m); 135-6(f).*

#### **20 NCAC 02B .0303 CONTINGENT BENEFICIARY**

~~A principal beneficiary may be named with the stipulation that should he predecease the member, payment of the amount due, if any, will be made to a designated contingent beneficiary. It is permissible to name more than one contingent beneficiary. In the event of the death of any so named, those surviving shall share equally in the total benefits. If more than one principal beneficiary is named, the naming of a contingent beneficiary or beneficiaries will not be permitted.~~

(a) Designating a contingent beneficiary for the return of accumulated contributions under the provisions of G.S. 135-5(f):

(1) A principal beneficiary may be designated for the return of accumulated contributions with the stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for the return of accumulated contributions.

(2) If more than one principal beneficiary is designated for the return of accumulated contributions, payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the return of accumulated contributions, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.

(3) It is permissible to designate more than one contingent beneficiary for the return of accumulated contributions. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for the return of accumulated contributions, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the return of accumulated contributions.

(b) Designating a contingent beneficiary for the death benefit under the provisions of G.S. 135-5(l):

- (1) A principal beneficiary may be designated for the death benefit of an active member or retired member with the stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for the death benefit.
- (2) If more than one principal beneficiary is designated for the death benefit, payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the death benefit, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the death benefit. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for the death benefit, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the death benefit.

(c) Designating a contingent beneficiary for the guaranteed refund under the provisions of G.S. 135-5(g1):

- (1) A principal beneficiary may be designated for the guaranteed refund with the stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for the guaranteed refund.
- (2) If more than one principal beneficiary is designated for the guaranteed refund, payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the guaranteed refund, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the guaranteed refund. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for the guaranteed refund, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the guaranteed refund.

*Authority G.S. 135-5(f); 135-5(g); 135-5(g1); 135-5(l); 135-6(f).*

#### **20 NCAC 02B .0304 NO LIVING BENEFICIARY**

If no designated named beneficiary, whether principal or contingent, is living at the time of the member's death, payment of the amount due, if any, will be made to the estate legal representative of the member.

*Authority G.S. 135-5(g); 135-6(f).*

#### **20 NCAC 02B .0305 BENEFICIARY WHO IS A MINOR**

(a) Payments to beneficiaries who are minors will be made to a duly appointed guardian or to the clerk of superior court in the county in which they reside to the extent that such payment may be authorized by law.

(b) In the event that the duly appointed guardian or the clerk of superior court in the county in which they reside is unwilling or unable to accept payment(s) on behalf of the minor beneficiary(ies), payment may be made to a custodian in accordance with Chapter 33A of the North Carolina General Statutes, entitled North Carolina Uniform Transfers to Minors Act.

*Authority G.S. 135-5(g); 135-6(f).*

#### **20 NCAC 02B .0307 CHANGE IN BENEFICIARY**

Prior to retirement, the member may, ~~has the right~~ at any time, and ~~from time to time, to~~ change any beneficiaries designated for the return of accumulated contributions under the provisions of G.S. 135-5(f) or the death benefit for active members under the provisions of G.S. 135-5(l) ~~without the knowledge or consent of the beneficiaries~~. A retired member may, at any time, change any beneficiaries designated for:

- (1) The guaranteed refund under the provisions of G.S. 135-5(g1) until such time as the funds have been depleted; or
- (2) The death benefit for active members under the provisions of G.S. 135-5(l) until such time as the retired member's last day of active service is greater than 180 days prior to the change; or
- (3) The death benefit for retired members under the provisions of G.S. 135-5(l).

Any such change must be submitted to the ~~board~~ Board of trustees. Trustees.

*Authority G.S. 135-5(f); 135-5(g); 135-5(g1); 135-5(l); 135-6(f).*

#### **20 NCAC 02B .0308 SPECIAL RULE: BENEFICIARY BEFORE JULY 1, 1967 (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

##### **SECTION .0400 - EMPLOYER CONTRIBUTIONS**

#### **20 NCAC 02B .0401 REFUNDS**

(a) The ~~retirement~~ Retirement system System will make no refunds of employer ~~contributions~~ contributions, paid into the pension accumulation fund by the employer in the amount equal to a percentage of the actual compensation of each member, in cases of erroneous employee deductions except those which are corrected by the employing unit on a subsequent payroll within the calendar year in which the errors occur. ~~The only exception to this Rule is that an error occurring in December may be corrected (without loss of the employer contribution) by submission of a revised payroll with checks for the correct amount before January 31 of the following year.~~

(b) Notwithstanding Paragraph (a) of this Rule, an error occurring in December may be corrected (and the associated employer contribution be refunded in the form of a credit toward future

required employer contributions) by the employer's submission of a revised payroll report for the correct amount before January 31 of the following year.

(c) If an employer makes an additional contribution to the pension accumulation fund as a result of the contribution-based benefit cap, and the Retirement System receives information which alters the calculation of the retirement benefit used to determine the contribution under the provisions of G.S. 135-8(f)(2)(f.), any contribution not required based on the new information will be refunded to the employer in the form of a credit toward future required employer contributions.

*Authority G.S. 135-2; 135-8(f); 135-6(f).*

**20 NCAC 02B .0402 FORWARDING OF EMPLOYER CONTRIBUTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0404 DUE DATE OF CONTRIBUTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0405 ANTI-PENSION SPIKING CONTRIBUTION-BASED BENEFIT CAP FACTOR (TSERS)**

~~The contribution-based benefit cap factor for the Teachers' and State Employees' Retirement System is 4.5.~~

*Authority G.S. 135-4(jj); 135-5(a3); 135-6(f).*

**SECTION .0500 - TYPES OF RETIREMENT**

**20 NCAC 02B .0501 DISABILITY RETIREMENT EXAMINATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0502 DISABILITY RETIREMENT REPORTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0503 FEES: INDEPENDENT MEDICAL EXAMS-DISABILITY RETIREMENTS**

~~Physicians employed upon the recommendations of the Medical Board to examine and report on special cases of disability retirement applicants and re-examination of disability beneficiaries shall be paid fees commensurate with usual, customary and reasonable charges for such tests, examinations, procedures and reports as the Medical Board might request; and, the amounts of such fees shall be predetermined by mutual agreement between the director and the physicians so employed, with the advice of the Medical Board as to the amounts, provided that no fee for any one applicant or beneficiary shall exceed the sum of one hundred and fifty dollars (\$150.00).~~

*Authority G.S. 135-6(f); 135-6(k).*

**20 NCAC 02B .0504 INTEREST CREDITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0510 PENSIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0700 - LEAVES OF ABSENCE**

**20 NCAC 02B .0701 EDUCATIONAL LEAVES OF ABSENCE**

~~(a) All members, who request approval to purchase creditable service and who fulfill all of the requirements of law and the rules of the board, shall be allowed to purchase the service in accordance with the law and the rules of the board.~~

~~(b) Payments to be made for purchases on account of current leave of absence shall be submitted on Form 224, Payment of Contributions for a Current Leave of Absence, which shall be submitted as required by law. If the employer will make the monthly contributions equal to the normal and accrued liability contribution, the employer shall submit the total payment. If the member will make the entire payment, the member shall submit the total payment. In any case in which the employer continues to make salary payments, in whole or part, the director may make an agreement with the employer on how to make the payments which is not inconsistent with the law or the rules of the board.~~

~~(c) Contributions for purchase of service shall not be accepted unless the member has applied for permission to purchase the service not later than the due date of the payment for the first month for which credit is to be purchased. Applications after the last day of the first month for which service is to be purchased and the due date thereof shall be accompanied by a check in payment of the contribution for said month.~~

~~(d) Payment shall be deemed to have been made on the date received by the board, provided that a payment made by mail which is clearly postmarked on or before the due date shall be deemed paid when due.~~

~~(e) Purchases of service credit for leaves of absence prior to July 1, 1981 shall be made in the same manner as prescribed in 20 NCAC 2B .1200, DELAYED PURCHASE OF SERVICE CREDITS.~~

(a) For the purposes of G.S. 135-8(b)(5), "stipend" shall mean "a fixed sum of money paid periodically for services and to defray the cost of travel, housing, meals, or other living expenses resulting from participation in a full-time degree program."

(b) If the employer makes the monthly employer contribution equal to the normal and accrued liability contribution, the employer shall submit the total employer payment to the Retirement System.

(c) If the member makes the entire payment, the member shall submit the total employer and employee contribution to the Retirement System.

~~(f)(d)~~ A member, who is currently making contributions to purchase service for an educational leave of absence, and whose position before the leave of absence was paid on a less than 12-month basis, shall make the payment in the month after the regularly scheduled due date for payment of salary and shall earn service credits for said contributions in the same manner the member as he would if the member he was currently being employed in that last position.

*Authority G.S. 135-6(f); 135-8(b)(5).*

**20 NCAC 02B .0706 WORKERS' COMPENSATION LEAVES OF ABSENCE**

(a) All members, who request approval to purchase creditable service and who fulfill all of the requirements of law and the rules of the ~~board, Board~~, shall be allowed to purchase the service in accordance with the law and rules of the ~~board, Board~~.

(b) Purchases of creditable service for leaves of absence prior to July 1, 1983 shall be made in the same manner as prescribed in ~~Section 20 NCAC 2B .1200 .1200, as then effective. DELAYED PURCHASE OF SERVICE CREDITS. A fee in the amount of twenty five dollars (\$25.00) for each payment will be assessed members at the time of purchase as provided by law.~~

(c) Purchases of creditable service for leaves of absence on and after July 1, 1983 shall be paid in the manner prescribed in law equal to the sum of the total employer and employee percentage rates of contribution in effect at the time of purchase multiplied by the annual rate of compensation of the member immediately prior to the leave of absence applied to the period of the leave commencing on the first day and ending on the last day before return to service.

(d) Members who had leaves of absence which otherwise met all requirements of law for purchase as creditable service except that the leaves of absence interrupted membership in the Local Governmental Employees' Retirement System or the Law Enforcement Officers' Retirement System and whose membership service before and after the leaves of absence has become membership service in the Teachers' and State Employees' Retirement System, may purchase creditable service as in Paragraph (b) of this Rule.

(e) Members may purchase creditable service for leaves of absence only when they have membership service credits immediately prior to and immediately after the leaves of absence and such membership service is creditable service at the time of purchase.

*Authority G.S. 135-4(r); 135-6(f).*

**SECTION .0800 - MILITARY SERVICE (INCHOATE RIGHTS ONLY)**

**20 NCAC 02B .0801 FEE**

~~A fee in the amount of twenty five dollars (\$25.00) for each payment will be assessed each individual at the time of payment to help defray the expense of handling.~~

*Authority G.S. 135-4(f)(6); 135-6(f).*

**20 NCAC 02B .0802 QUALIFYING FOR CREDIT (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0803 COMPUTATION OF COST**

The cost of purchasing credit for military service is calculated as follows:

- (1) 1/12 of the annualized rate of compensation the member earned when the member ~~he~~ first entered membership; multiplied by times

- (2) the employee contribution rate at that time; multiplied by times
- (3) the number of months of military service for which credit is to be purchased; plus
- (4) a factor equivalent to interest at the rate of six and one-half percent, compounded annually, from the initial year of membership to the year of payment.

*Authority G.S. 135-4(f); 135-6(f).*

**20 NCAC 02B .0804 CIVIL SERVICE PARTICIPATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0805 SERVICE CONNECTED DISABILITY (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0806 RECALCULATION OF BENEFITS**

For members already retired who ~~avail themselves of these provisions~~ purchase service under G.S. 135-4(f)(6), any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement including the additional service credit and effect shall be given for all benefit increases subsequent to the date of retirement which shall be a part of the total cost of providing the additional service credit.

*Authority G.S. 135-4(f)(6); 135-6(f).*

**20 NCAC 02B .0807 CHANGE IN BENEFITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0810 RESTORING MEMBERSHIP (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0900 - OUT-OF-STATE SERVICE (INCHOATE RIGHTS ONLY)**

**20 NCAC 02B .0901 FEE**

~~A fee in the amount of twenty five dollars (\$25.00) for each payment will be assessed each individual at the time of payment to help defray the expense of handling out of state service credit.~~

*Authority G.S. 135-4(l); 135-6(f).*

**20 NCAC 02B .0902 QUALIFYING FOR CREDIT (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0903 DEFINITION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0904 COMPUTATION OF COST (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02B .0905 RECALCULATION OF BENEFITS**

For members already retired who ~~avail themselves of the provisions for out of state service, purchase service under G.S. 135-4(l),~~ any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement including the additional service credit and effect shall be given for all benefit increases subsequent to the date of retirement which shall be a part of the total cost of providing the additional service credit.

*Authority G.S. 135-4(l); 135-6(f).*

**20 NCAC 02B .0906 CHANGE IN BENEFITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .1000 - PRIOR SERVICE**

**20 NCAC 02B .1003 PRIOR SERVICE WITH GENERAL ASSEMBLY**

(a) ~~Employees eligible under S.L. 1979, Ch. 698 to purchase such service may make application to purchase prior service as a full time employee of the General Assembly for which membership credit was not previously allowed.~~

(b) ~~The Legislative Services Officer shall certify to the retirement system that the applicant was a full time employee during the period for which the application is made. The said certification shall also certify the total hours and salary paid in each month. Provided, however, if the Legislative Services Officer certified that the monthly data is not available, he may certify the data in the form in which it is available.~~

(c) ~~If earnings and service are certified on a monthly basis, compute the required contributions and earned service in the same manner as would have been calculated if paid at that time.~~

(d) ~~If earnings and service are not certified on a monthly basis, compute the required contribution at the highest rate in effect during the period for which certified. Allow one month of service for each 20 days. To the extent possible, integrate periods of service to be purchased with intervening periods of membership service.~~

(e) ~~Fractional months of service for multiple service period being certified shall be added together to determine the total allowable service. Remaining fractional months in excess of one half shall be considered to be a full month.~~

(f) ~~Regular interest, as provided for in G.S. 135-7(b), shall be calculated and charged through the year of purchase.~~

(g) ~~An administrative fee of \$25.00 shall be collected at the time application is made to purchase service.~~

(h) ~~No person shall purchase less than the total service for which they are eligible.~~

*Authority G.S. 135-4(j1); 135-6(f).*

**20 NCAC 02B .1004 TEMPORARY SERVICE PURCHASE (INCHOATE RIGHTS ONLY)**

(a) A member eligible under G.S. 135-4(p) to purchase service for temporary State employment shall ~~make the application on Form 222, apply for the purchase. Application to Purchase Service Credits for Full Time Temporary State Employment.~~ Employer certification of temporary State employment and the

compensation received for such service shall ~~be made on Form 222 A, Employer Certification of Full Time Temporary Service, and shall~~ accompany the application.

(b) Temporary State employment means employment under which the member would have been unconditionally required to make contributions at the time of employment if not classified at the time of employment as a "temporary" employee.

(c) ~~Since the actual cost to fund the liability created on account of the purchase has a direct relationship to the purchasing member's current level of compensation, the employer cost will be computed on the member's level of compensation at the time of purchase.~~ The employer cost, therefore, shall be equal to the total employee and employer rates of contribution at the member's level of compensation at the time of purchase and for the period of service being purchased, less the required member contribution.

(d) No purchases shall be allowed for 36 months or less.

*Authority G.S. 135-4(p); 135-6(f).*

**20 NCAC 02B .1005 TEMPORARY SERVICE PURCHASE: FULL ACTUARIAL LIABILITY**

(a) ~~All members, who request approval to purchase creditable service for temporary state employment and who fulfill all of the requirements of law and the rules of the board, shall be allowed to purchase the service in accordance with the law and rules of the board.~~

(b) ~~Purchases of creditable service for temporary state employment shall be made in the same manner as prescribed in 20 NCAC 2B .1200 DELAYED PURCHASE OF SERVICE CREDITS.~~

(c) ~~Members requesting approval to purchase creditable service shall make application on and acquire certification from the employer of the temporary employment on Form 222 B, Application to Purchase Temporary State Employment.~~

(d) ~~The phrase "temporary employment" as used in G.S. 135-4(s)(2) shall mean a period of continuous temporary employment prior to membership, except when multiple periods of temporary employment were interrupted by less than 90 calendar days or by the number of days between consecutive academic/school years.~~

(e) ~~The phrase "completed 10 years or more of membership service" as used in G.S. 135-4(q)(3) shall mean membership service completed after the temporary state employment.~~

(f) ~~A fee in the amount of twenty five dollars (\$25.00) for each payment shall be assessed members at the time of purchase as provided by law.~~

*Authority G.S. 135-4(s); 135-6(f).*

**20 NCAC 02B .1006 PART-TIME SERVICE PURCHASE: FULL ACTUARIAL LIABILITY**

(a) ~~Members requesting approval to purchase creditable service shall make application on and acquire certification from the employer of the part time employment on the form designated for this purpose.~~

(b) The phrase "part-time" as used in G.S. 135-4(p2) 135-4(pl) shall refer to duties performed on less than a full-time basis.

~~(c) The phrase "completed 10 years or more of membership service" as used in G.S. 135-4(pl) shall mean membership service completed after the "part time" state employment.~~

~~(d) The amount of part time service to be purchased shall be computed as follows:~~

- ~~(1) Determine the ratio of the actual gross compensation earned as a part time employee (numerator) to the gross compensation that would have been earned as a full time employee (denominator);~~
- ~~(2) Apply the ratio (quotient) determined in (1) of this Paragraph to the period of service rendered in months.~~

~~(e) Purchases of creditable service for part time state employment shall be made in the same manner as prescribed in 20 NCAC 2B .1200.~~

~~(f) A fee in the amount of twenty five dollars (\$25.00) for each payment shall be assessed members at the time of purchase as provided by law.~~

*Authority G.S. 135-4 (p2)(pt); 135-6(f).*

#### **20 NCAC 02B .1007 LOCAL GOVERNMENT SERVICE PURCHASE: FULL ACTUARIAL LIABILITY**

~~(a) Members requesting approval to purchase creditable service shall make application on and acquire certification from the employer, of the local government employment on the form designated for this purpose.~~

~~(b) The phrase "local government employment" shall mean service while regularly employed as defined in 20 NCAC 2C .0802.~~

~~(c) The phrase "local government employer" shall mean a local governmental entity as defined in G.S. 128-21(11).~~

~~(d) The phrase "upon completion of 10 years of membership service" as used in G.S. 135-4(t) shall mean membership service completed after the local governmental employment.~~

~~(e) Purchases of creditable service for local government employment shall be made in the same amount as prescribed in 20 NCAC 2B .1200.~~

~~(f) A fee in the amount of twenty five dollars (\$25.00) for each payment shall be assessed members at the time of purchase as provided by law.~~

*Authority G.S. 135-4(t); 135-6(f).*

#### **SECTION .1100 - VOLUNTARILY WITHDRAWN CONTRIBUTIONS**

##### **20 NCAC 02B .1101 FEE**

~~A fee in the amount of twenty five dollars (\$25.00) for each payment will be assessed each individual at the time of payment for voluntarily withdrawn contributions to help defray the expense of handling.~~

*Authority G.S. 135-4(k); 135-6(f).*

##### **20 NCAC 02B .1102 QUALIFICATION**

~~In order to qualify for service credit, each individual must restore all accounts previously withdrawn on a voluntary basis.~~

*Authority G.S. 135-4(k); 135-6(f).*

#### **20 NCAC 02B .1104 RECALCULATION OF BENEFITS**

~~For members already retired who avail themselves of these provisions, any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement including the additional service credit and effect shall be given for all benefit increases subsequent to the date of retirement which shall be a part of the total cost of providing the additional service credit.~~

*Authority G.S. 135-4(k); 135-6(f).*

#### **SECTION .1200 - DELAYED PURCHASE OF SERVICE CREDITS**

##### **20 NCAC 02B .1204 DEFINITIONS**

~~The following words and phrases have the meanings indicated when used in this Section, unless the context clearly requires another meaning:~~

- ~~(1) "earliest retirement date" is the first date at which the applicant could retire with an unreduced benefit;~~
- ~~(2) "nearest age" is year and whole month of the age of the member which is closest to the date specified;~~
- ~~(3) "estimated allowance (with purchase)" is the estimated retirement allowance computed in the normal manner at the earliest retirement date and the years of service the applicant would have if the purchase is made;~~
- ~~(4) "estimated allowance (without purchase)" is the estimated allowance computed in the normal manner at the earliest retirement date and the years of service which the applicant would have at that time if no purchase is made.~~

*Authority G.S. 135-6(f).*

##### **20 NCAC 02B .1205 COMPUTATION OF COST**

~~The cost of a delayed purchase of service credit is computed as follows:~~

- ~~(1) Determine earliest retirement dates;~~
- ~~(2) Determine estimated average final compensation (with purchase) and (without purchase) by multiplying the total compensation actually paid for the period for which 12 months' service credit will have been earned through the current month by the factor determined from the table of Salary Factors using the member's nearest age on the last day of the current month and at the earliest retirement date (with purchase) and (without purchase). Provided that if the member is out of service but not retired, has passed his 65th birthday, or has 30 years of service credit without the purchase, the estimated average final compensation will be calculated in the~~

- normal manner for the compensation and service recorded by the Retirement System;
- (3) ~~Determine estimated allowance (with purchase);~~
  - (4) ~~Determine required reserve on estimated allowance (with purchase) by multiplying the estimated allowance (with purchase) by the reserve factor found in the Table of Reserve Factors for the nearest ages at purchase date and at earliest retirement date;~~
  - (5) ~~Determine estimated allowance (without purchase);~~
  - (6) ~~Determine available reserve on estimated allowance (without purchase) by multiplying the estimated allowance (without purchase) by the reserve factor for the nearest ages at purchase date and at earliest retirement date;~~
  - (7) ~~The cost of purchasing service credit is the difference between the required reserve (with purchase) and the available reserve (without purchase). Provided that if the difference between the required reserve and the available reserve is zero, the cost of purchasing the service credit is the estimated average final compensation (with purchase) times the number of years service purchased, times the statutory service factor, times the reserve factor for the nearest ages at the last day of the last month for which the compensation used was recorded and at earliest retirement date (with purchase).~~

*Authority G.S. 135-6(f).*

**20 NCAC 02B .1207 SPECIAL RULE FOR RETIRED APPLICANTS**

~~The cost of a delayed purchase of service credit for a person currently receiving a retirement allowance is computed as follows:~~

- (1) ~~Determine the estimated allowance (with purchase), what is the monthly amount that the applicant would be receiving, if he had retired at his original retirement date for his present option, with his current creditable service plus the service to be purchased, by using the factors applicable at his actual retirement date, and including all cost of living and special percentage increases which he has actually received since his first monthly retirement benefits.~~
- (2) ~~Determine the difference between his estimated allowance (with purchase) and his present monthly retirement benefit.~~
- (3) ~~Determine the cost of purchasing the service credit by multiplying the difference in monthly benefit by twelve, and then dividing by the option factor from the Table of Option Factors for his current option and then multiplying by~~

~~the reserve factor from the Table of Reserve Factors for his current age and retirement age.~~

*Authority G.S. 135-6(f); 135-4(m).*

**SUBCHAPTER 02F - CONSOLIDATED JUDICIAL RETIREMENT SYSTEM OF NORTH CAROLINA**

**20 NCAC 02F .0101 GENERAL INFORMATION (READoption WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02F .0104 ACTUARIAL TABLES: RATES AND ASSUMPTIONS**

(a) Actuarial tables and assumptions will be adopted by the ~~board~~ Board of trustees Trustees after the presentation of the recommendations of the ~~actuary~~ actuary, by including the tables, rates, etc. in the minutes of the board with the resolution adopting said tables, rates or assumptions. As provided by G.S. 150B-1(d), these actions of the Board of Trustees are not subject to rule-making requirements.

(b) ~~The director of the retirement systems~~ Director shall maintain a file of copies of all resolutions adopting tables, rates or assumptions and the current version of all tables as amended by the ~~board~~ Board of trustees Trustees. The file shall be open and readily available to the public during regular office hours.

(c) ~~This Rule includes but is not limited to the following actuarial tables and assumptions:~~

- (1) ~~interest rate assumptions;~~
- (2) ~~salary increase assumptions;~~
- (3) ~~required contribution rates;~~
- (4) ~~mortality assumptions;~~
- (5) ~~separation and retirement assumptions;~~
- (6) ~~joint and survivor tables;~~
- (7) ~~reserve transfer tables.~~

~~(d)(c)~~ Tables, rates and assumptions shall become effective on the first day of the month following adoption, unless a specific effective date is included in the adopting resolution. If the specific date is included, the tables, rates or assumptions shall be effective as provided in the adopting resolution.

*Authority G.S. 135-69; 135-6(f).*

**20 NCAC 02F .0107 FINAL COMPENSATION FOR THREE-FOURTHS LIMITATION (READoption WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02F .0108 FULL ACTUARIAL COST**

~~"Full cost of the service credits" will be calculated in substantially the same manner as in 20 NCAC 2B .1200 using the tables, rates, assumptions, etc. adopted by the board for the Consolidated Judicial Retirement System.~~

*Authority G.S. 135-52; 135-6(f).*

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Local Governmental Employees' Retirement System Board of Trustees intends to adopt the rule*

*cited as 20 NCAC 02C .0307, amend the rules cited as 20 NCAC 02C .0101, .0904; 02N .0106, repeal the rule cited as 20 NCAC 02C .0405, readopt with substantive changes the rules cited as 20 NCAC 02C .0201, .0205, .0302, .0304, .0306, .0403, .0704, .1006; 02N .0208, .0215, readopt without substantive changes the rules cited as 20 NCAC 02C .0204, .0301, .0303, .0402, .0404, .0501, .0502, .0504, .0901, .0906- .0909, .1002- .1004, .1007; 02N .0108, .0219 and repeal through readoption the rules cited as 20 NCAC 02C .0503, .0902, .1001, .1201, .1301, .1302, .1501, .1503- .1506; and 02N .0218.*

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.nctreasurer.com/about/transparency/commitment-transparency/nc-administrative-code-rules>

**Proposed Effective Date:** January 1, 2023

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): Submit a written request for public hearing within 15 days after publication of the Notice of Text to: Dept of State Treasurer, Attn: Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604 or [DST.NCAC@nctreasurer.com](mailto:DST.NCAC@nctreasurer.com).*

**Reason for Proposed Action:** *These proposed rule changes are being made as part of the Local Governmental Employees' Retirement System (LGERS) Board of Trustees' readoption phase of the decennial review process. Those rules administered by the LGERS Board of Trustees and identified as being "necessary" requiring readoption by December 31, 2022 are included in this rules action. Those rules are either being 1) readopted 'as is;' 2) readopted with substantive changes; 3) readopted without substantive changes; or 4) repealed.*

*In addition, the LGERS Board of Trustees, as part of a joint action with the Teachers' and State Employees' Retirement System (TSERS) Board of Trustees, is seeking to simplify rules related to statutory provisions requiring that service purchases include an administrative fee to be set by the LGERS Board. The Boards are seeking to do this by adopting a new single rule covering all such situations of service purchases. As part of this simplification, the LGERS Board of Trustees is seeking to repeal, through readoption, current rules it administers that cover service purchases.*

*The LGERS Board of Trustees is seeking to adopt a new rule for contingent beneficiaries that is similar to a current TSERS rule. The proposed LGERS rule allows members to designate beneficiaries for various purposes similar to the TSERS rule. Some LGERS rules (not identified as 'necessary' in the first phase of decennial review) are proposed for amendment to provide clarification. An additional rule is proposed for repeal.*

**Comments may be submitted to:** Laura Rowe, Rulemaking Coordinator, 3200 Atlantic Avenue, Raleigh, NC 27604; email [DST.NCAC@nctreasurer.com](mailto:DST.NCAC@nctreasurer.com)

**Comment period ends:** August 1, 2022

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☒ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

## CHAPTER 02 - RETIREMENT SYSTEMS

### SUBCHAPTER 02C - LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

#### SECTION .0100 - GENERAL PROVISIONS

##### 20 NCAC 02C .0101 GENERAL INFORMATION

General information about the Local Governmental Employees' Retirement System includes the following:

- (1) The Director ~~chief officer~~ is the Director of the Retirement ~~Systems~~; Systems Division;
- (2) The mailing address is 3200 Atlantic Avenue, Raleigh, North Carolina 27604;
- (3) The office is located in the Longleaf Building, 3200 Atlantic Avenue, Raleigh, North Carolina.

Authority G.S. 128-28(g).

#### SECTION .0200 - ADMINISTRATION

##### 20 NCAC 02C .0201 ACTUARIAL TABLES: RATES AND ASSUMPTIONS

(a) Actuarial tables and assumptions will be adopted by the ~~board~~ Board of trustees ~~Trustees~~ after the presentation of the recommendations of the actuary ~~by including the tables, rates, etc. in the minutes of the board with the resolution adopting said~~



~~tables, rates or assumptions. As provided by G.S. 150B-1(d), these actions of the Board of Trustees are not subject to rule-making requirements.~~

(b) ~~The director~~ Director of the retirement systems shall maintain a file of copies of all resolutions adopting tables, rates or assumptions and the current version of all tables as amended by the ~~board~~ Board of trustees. Trustees. The file shall be open and readily available to the public during regular office hours.

(e) ~~This Rule includes but is not limited to the following actuarial tables and assumptions:~~

- ~~(1) interest rate assumptions;~~
- ~~(2) salary increase assumptions;~~
- ~~(3) required contribution rates;~~
- ~~(4) mortality assumptions;~~
- ~~(5) separation and retirement assumptions;~~
- ~~(6) joint and survivor tables;~~
- ~~(7) reserve transfer tables.~~

~~(d)(c)~~ Tables, rates and assumptions shall become effective on the first day of the month following adoption, unless a specific effective date is included in the adopting resolution. If the specific date is included, the tables, rates or assumptions shall be effective as provided in the adopting resolution.

*Authority G.S. 128-27(m); 128-28(g).*

#### **20 NCAC 02C .0204 FACILITY OF PAYMENT (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

#### **20 NCAC 02C .0205 MEDICAL BOARD**

In accordance with the authority contained in G.S. 128-28(l) membership of the Medical Board consists of ~~The Director of the Retirement Systems and the chairman of the board of trustees are authorized to increase the membership of the medical board from three to five physicians with a quorum of three being required at meetings approving applications for disability retirement.~~

*Authority G.S. 128-28(1).*

### **SECTION .0300 - BENEFICIARIES**

#### **20 NCAC 02C .0301 DESIGNATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

#### **20 NCAC 02C .0302 PRINCIPAL BENEFICIARY**

(a) More than one principal beneficiary may be named designated for the return of accumulated contributions under the provisions of G.S. 128-27(f) to share equally. In the event of the death of any so named, designated for the return of accumulated contributions, those surviving shall share equally in the total benefits. However, if there is only one living designated principal beneficiary for the return of accumulated contributions at the member's death and the member has met all other requirements under the provisions of G.S. 128-27(m), the designated principal beneficiary may elect to receive the alternative benefit under the provisions of G.S. 128-27(m).

(b) More than one principal beneficiary may be designated for the death benefit of an active member or a retired member under the provisions of G.S. 128-27(l), 128-27(11), or 128-27(16) to share equally. In the event of the death of any so designated

principal beneficiary(ies) for the death benefit of an active member or retired member, those surviving principal beneficiary(ies) shall share equally in the total benefits.

~~(b)(c)~~ More than one principal beneficiary may be designated for the guaranteed refund under the provisions of G.S. 128-27(g1) to share equally. In the event of the death of any so designated principal beneficiary(ies) for the guaranteed refund, those surviving principal beneficiary(ies) shall share equally in the total benefits. A principal beneficiary may be named with the stipulation that should he predecease the member, payment of the amount due, if any, will be made to a designated contingent beneficiary. It is permissible to name more than one contingent beneficiary. In the event of the death of any so named, those surviving shall share equally in the total benefits. If more than one principal beneficiary is named, the naming of a contingent beneficiary or beneficiaries will not be permitted.

*Authority G.S. 128-27(f); ~~128-27(g);~~ 128-27(g1); 128-27(l); 128-27(11); 128-27(16); 128-28(g).*

#### **20 NCAC 02C .0303 NO LIVING BENEFICIARY (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

#### **20 NCAC 02C .0304 PAYMENTS TO BENEFICIARIES**

(a) Payments to beneficiaries who are minors will be made to a duly appointed guardian or to the clerk of the superior court in the county which they reside to the extent that such payment may be authorized by law.

(b) In the event that the duly appointed guardian or the clerk of superior court in the county in which they reside is unwilling or unable to accept payment(s) on behalf of the minor beneficiary(ies), payment may be made to a custodian in accordance with Chapter 33A of the North Carolina General Statutes, entitled North Carolina Uniform Transfers to Minors Act.

*Authority G.S. 128-27(g); 128-28(g).*

#### **20 NCAC 02C .0306 BENEFICIARY CHANGE**

Prior to retirement, the member may, has the right at any time, and from time to time, to change any beneficiaries designated for the return of accumulated contributions under the provisions of G.S. 128-27(f) or the death benefit for active members under the provisions of G.S. 128-27(l) or 128-27(11), without the knowledge or consent of the beneficiaries. A retired member may, at any time, change any beneficiaries designated for:

- (1) The guaranteed refund under the provisions of G.S. 128-27(g1) until such time as the funds have been depleted; or
- (2) The death benefit for active members under the provisions of G.S. 128-27(l) or 128-27(11) until such time as the retired member's last day of active service is greater than 180 days prior to the change; or
- (3) The death benefit for retired members under the provisions of G.S. 128-27(16).

Any such change must be submitted to the board Board of trustees, Trustees, using the appropriate form.

*Authority G.S. 128-27(g); 128-27(g1); 128-27(l); 128-27(l1); 128-27(l6); 128-28(g).*

**20 NCAC 02C .0307      CONTINGENT BENEFICIARY**

(a) Designating a contingent beneficiary for the return of accumulated contributions under the provisions of G.S. 128-27(f):

- (1) A principal beneficiary may be designated for the return of accumulated contributions with the stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for the return of accumulated contributions.
- (2) If more than one principal beneficiary is designated for the return of accumulated contributions, payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the return of accumulated contributions, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the return of accumulated contributions. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for the return of accumulated contributions, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the return of accumulated contributions.

(b) Designating a contingent beneficiary for the death benefit under the provisions of G.S. 128-27(l), 128-27(l1), or 128-27(l6):

- (1) A principal beneficiary may be designated for the death benefit of an active member or retired member with the stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for the death benefit.
- (2) If more than one principal beneficiary is designated for the death benefit, payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the death benefit, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the death benefit. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for the death benefit, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the death benefit.

(c) Designating a contingent beneficiary for the guaranteed refund under the provisions of G.S. 128-27(g1):

- (1) A principal beneficiary may be designated for the guaranteed refund with the stipulation that should the principal beneficiary(ies) predecease the member, payment of the amount due, if any, shall be made to the designated contingent beneficiary(ies) for the guaranteed refund.
- (2) If more than one principal beneficiary is designated for the guaranteed refund, payment of the amount due, if any, shall be paid to any surviving principal beneficiary(ies) designated for the guaranteed refund, sharing equally in the total benefits payable, and shall not be paid to any contingent beneficiary.
- (3) It is permissible to designate more than one contingent beneficiary for the guaranteed refund. Payment of the amount due, if any, shall be paid to the surviving contingent beneficiary(ies) designated for the guaranteed refund, sharing equally in the total benefits, only in the event that there is no surviving principal beneficiary designated for the guaranteed refund.

*Authority G.S. 128-27(f); 128-27(g1); 128-27(l); 128-27(l1); 128-27(l6); 128-28(g).*

**SECTION .0400 - CONTRIBUTIONS**

**20 NCAC 02C .0402      EMPLOYER'S CONTRIBUTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02C .0403      REFUNDS**

(a) The ~~retirement~~ Retirement system System will make no refunds of employer ~~contributions~~ contributions, paid into the pension accumulation fund by the employer in the amount equal to a percentage of the actual compensation of each member, in cases of erroneous employee deductions except those which are corrected by the employing unit on a subsequent payroll within the calendar year in which the errors occur. ~~The only exception to this Rule is that an error occurring in December may be corrected (without loss of the employer contribution) by submission of a revised payroll with checks for the correct amount before January 31, of the following year.~~

(b) Notwithstanding Paragraph (a) of this Rule, an error occurring in December may be corrected (and the associated employer contribution be refunded in the form of a credit toward future required employer contributions) by the employer's submission of a revised payroll report for the correct amount before January 31 of the following year.

(c) If an employer makes an additional contribution to the pension accumulation fund as a result of the contribution-based benefit cap, and the Retirement System receives information which alters the calculation of the retirement benefit used to determine the contribution under the provisions of G.S. 128-30(g)(2)(b.), any contribution not required based on the new information will be refunded to the employer in the form of a credit toward future required employer contributions.

Authority G.S. 128-22; 128-30(g); 128-28(g).

**20 NCAC 02C .0404 DUE DATE OF CONTRIBUTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02C .0405 ANTI-PENSION SPIKING CONTRIBUTION-BASED BENEFIT CAP FACTOR (LGERS)**

~~The contribution based benefit cap factor for the Local Governmental Employees' Retirement System is 4.7.~~

Authority G.S. 128-26(y); 128-27(a3); 128-28(g).

**SECTION .0500 - DISABILITY RETIREMENT**

**20 NCAC 02C .0501 DISABILITY EXAMINATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02C .0502 DISABILITY RETIREMENT REPORTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02C .0503 FEES: INDEPENDENT MEDICAL EXAMS-DISABILITY RETIREMENTS**

~~Physicians employed upon the recommendations of the Medical Board to examine and report on special cases of disability retirement applicants and re examination of disability beneficiaries shall be paid fees commensurate with usual, customary and reasonable charges for such tests, examinations, procedures and reports as the Medical Board might request; and, the amounts of such fees shall be predetermined by mutual agreement between the Director and the physicians so employed, with the advice of the Medical Board as to the amounts, provided that no fee for any one applicant or beneficiary shall exceed the sum of one hundred and fifty dollars (\$150.00).~~

Authority G.S. 128-27(c); 128-28(g).

**20 NCAC 02C .0504 REINSTATEMENT TO ACTIVE SERVICE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0700 - LEAVES OF ABSENCE**

**20 NCAC 02C .0704 WORKERS' COMPENSATION LEAVES OF ABSENCE**

(a) All members, who request approval to purchase creditable service and who fulfill all of the requirements of law and the rules of the ~~board~~, Board, shall be allowed to purchase the service in accordance with the law and rules of the ~~board~~, Board.

(b) Purchases of creditable service for leaves of absence prior to July 1, 1983 shall be made in the same manner as prescribed in Section 20 NCAC 2C .1500 02C .1500, as then effective. ~~DELAYED PURCHASE OF SERVICE CREDITS. A fee in the amount of twenty five dollars (\$25.00) for each payment will be assessed members at the time of purchase as provided by law.~~

(c) Purchases of creditable service for leaves of absence on and after July 1, 1983 shall be paid in the manner prescribed in law

equal to the sum of the total employer and employee percentage rates of contribution in effect at the time of purchase multiplied by the annual rate of compensation of the member immediately prior to the leave of absence applied to the period of the leave commencing on the first day and ending on the last day before return to service.

(d) Members who had leaves of absence which otherwise met all requirements of law for purchase as creditable service except that the leaves of absence interrupted membership in the Teachers' and State Employees' Retirement System or the Law Enforcement Officers' Retirement System and whose membership service before and after the leaves of absence has become membership service in the Local Governmental Employees' Retirement System, may purchase creditable service as in Paragraph (b) of this Rule.

(e) Members may purchase creditable service for leaves of absence only when they have membership service credits immediately prior to and immediately after the leaves of absence and such membership service is creditable service at the time of purchase.

Authority G.S. 128-26(1); 128-28(g).

**SECTION .0900 - MILITARY SERVICE (INCHOATE RIGHTS ONLY)**

**20 NCAC 02C .0901 LEAVE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02C .0902 FEE**

~~A fee in the amount of twenty five dollars (\$25.00) for each payment, for obtaining military service credit, will be assessed each individual at the time of payment to help defray the expense of handling.~~

Authority G.S. 128-26(a); 128-28(g).

**20 NCAC 02C .0904 COMPUTATION OF COST**

The cost of purchasing credit for military service is calculated as follows:

- (1) the monthly compensation the member earned when the member ~~he~~ first entered membership; multiplied by times
- (2) the contribution rate at the time the member ~~he~~ first entered membership; multiplied by times
- (3) the number of months of military service for which credit is to be purchased; plus
- (4) a factor equivalent to interest at the rate of six and one-half percent, compounded annually, from the initial year of membership to the year of payment.

Authority G.S. 128-26(a); 128-28(g).

**20 NCAC 02C .0906 CIVIL SERVICE PROGRAM (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02C .0907      EXCLUSION (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

*Authority G.S. 128-24(4)a.; 128-28(g).*

**20 NCAC 02C .0908      RECALCULATION OF  
BENEFITS (READOPTION WITHOUT SUBSTANTIVE  
CHANGES)**

**20 NCAC 02C .0909      CHANGE IN BENEFITS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .1000 - OUT-OF-STATE SERVICE (INCHOATE  
RIGHTS ONLY)**

**20 NCAC 02C .1001      FEE**

~~A fee in the amount of twenty five dollars (\$25.00) for each payment, for obtaining out of state service credit, will be assessed each individual at the time of payment to help defray the expense of handling.~~

*Authority G.S. 128-26(j); 128-28(g).*

**20 NCAC 02C .1002      QUALIFYING FOR CREDIT  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02C .1003      OTHER GOVERNMENTAL  
SUBDIVISION (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**20 NCAC 02C .1004      COMPUTATION OF COST  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**20 NCAC 02C .1006      RECALCULATION OF  
BENEFITS**

~~For members already retired who avail themselves of the provisions for obtaining credit for out of state service, purchase service under G.S. 128-26(j), any recalculation of benefits shall be based on the law in effect at the time of the individual's retirement including the additional service credit and effect shall be given for all benefit increases subsequent to the date of retirement which shall be a part of the total cost of providing the additional service credit.~~

*Authority G.S. 128-26(j); 128-28(g).*

**20 NCAC 02C .1007      CHANGE IN BENEFITS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .1200 - RETIREMENT ALLOWANCES**

**20 NCAC 02C .1201      SERVICE RETIREMENT**

~~(a) Policemen and firemen who attain age 55 while in service and are subsequently discharged or leave service without filing application for service retirement, will be permitted to do so at a later date since they have a vested right to a retirement allowance. (b) Benefits will begin at the proper time after the application is filed and will not be retroactive to the date of separation. The same rule applies to general employees who attain age 60 while in service and leave service thereafter without filing application for retirement.~~

**SECTION .1300 - VOLUNTARILY WITHDRAWN  
CONTRIBUTIONS**

**20 NCAC 02C .1301      FEE**

~~A fee in the amount of twenty five dollars (\$25.00) for each payment will be assessed each individual at the time of payment for voluntarily withdrawn contributions to help defray the expense of handling.~~

*Authority G.S. 128-26(i); 128-28(g).*

**20 NCAC 02C .1302      QUALIFYING FOR CREDIT**

~~In order to qualify to obtain credit, each individual must restore all accounts previously withdrawn on a voluntary basis.~~

*Authority G.S. 128-26(i); 128-28(g).*

**SECTION .1500 - DELAYED PURCHASE OF SERVICE  
CREDITS**

**20 NCAC 02C .1501      APPLICATION OF SECTION**

~~This Section applies to purchase of creditable service whenever a statutory provision prescribes that a payment by a member shall equal the full liability/cost of the service calculated on the basis of the assumptions used for purposes of the actuarial valuation of the Retirement System's liabilities, and shall take into account the retirement allowance arising on account of the additional service credit at the earliest age at which a member could retire on an unreduced service retirement allowance. An applicant shall be eligible to purchase creditable service under this Section only after having met all requirements of eligibility for purchase as defined by law and on rules duly adopted.~~

*Authority G.S. 128-26(k); 128-28(g).*

**20 NCAC 02C .1503      DEFINITIONS**

~~The following words and phrases have the meaning indicated when used in this Section, unless the context clearly requires another meaning:~~

- ~~(1) "earliest retirement date" is the first date at which the member could retire with an unreduced allowance,~~
- ~~(2) "nearest age" is the year and whole month of the age of the member which is closest to the date specified,~~
- ~~(3) "estimated allowance (with purchase)" is the estimated retirement allowance computed in the normal manner at the earliest retirement date and the years of service the member would have if the purchase is made,~~
- ~~(4) "estimated allowance (without purchase)" is the estimated allowance computed in the normal manner at the earliest retirement date and the years of service which the member would have at that time if no purchase is made.~~

*Authority G.S. 128-26(k); 128-28(g).*

**20 NCAC 02C .1504 COMPUTATION OF COST**

The cost of a delayed purchase of service credit is computed as follows:

- (1) ~~Determine earliest retirement dates;~~
- (2) ~~Determine estimated average final compensation (with purchase) and (without purchase) by multiplying the total compensation actually paid for the period for which 12 months' service credit will have been earned through the current month by the factor determined from the table of Salary Factors using the member's nearest age on the last day of the current month and at the earliest retirement date (with purchase) and (without purchase). Provided that if the member is out of service but not retired, has passed his 65th birthday, or has 30 years of service credit without the purchase, the estimated average final compensation will be calculated in the normal manner for the compensation and service recorded by the Retirement System;~~
- (3) ~~Determine estimated allowance (with purchase);~~
- (4) ~~Determine required reserve on estimated allowance (with purchase) by multiplying the estimated allowance (with purchase) by the reserve factor found in the Table of Reserve Factors for the nearest ages at purchase date and at earliest retirement date;~~
- (5) ~~Determine estimated allowance (without purchase);~~
- (6) ~~Determine available reserve on estimated allowance (without purchase) by multiplying the estimated allowance (without purchase) by the reserve factor for the nearest ages at purchase date and at earliest retirement date;~~
- (7) ~~The cost of purchasing service credit is the difference between the required reserve (with purchase) and the available reserve (without purchase). Provided that if the difference between the required reserve and the available reserve is zero, the cost of purchasing the service credit is the estimated average final compensation (with purchase) times the number of years service purchased, times the statutory service factor, times the reserve factor for the nearest ages at the last day of the last month for which the compensation used was recorded and at earliest retirement date (with purchase).~~

*Authority G.S. 128-26(k); 128-28(g).*

**20 NCAC 02C .1505 EXTENT OF SERVICE TO BE PURCHASED**

The extent of a delayed purchase of service credit by a member is all or such portion in full years as the member elects and for which he is eligible.

*Authority G.S. 128-26(k); 128-28(g).*

**20 NCAC 02C .1506 SPECIAL RULE FOR RETIRED APPLICANTS**

The cost of a delayed purchase of service credit for a person currently receiving a retirement allowance is computed as follows:

- (1) ~~Determine the estimated allowance (with purchase), what is the monthly amount that the applicant would be receiving, if he had retired at his original retirement date for his present option, with his current creditable service plus the service to be purchased, by using the factors applicable at his actual retirement date, and including all cost of living and special percentage increases which he had actually received since his first monthly retirement benefits;~~
- (2) ~~Determine the difference between his estimated allowance (with purchase) and his present monthly retirement benefit;~~
- (3) ~~Determine the cost of purchasing the service credit by multiplying the difference in monthly benefit by twelve, and then dividing by the option factor from the Table of Options Factors for his current option, and then multiplying by the reserve factor from the Table of Reserve Factors for his current age and retirement age.~~

*Authority G.S. 128-26(k); 128-28(g).*

**SUBCHAPTER 02N - FIREFIGHTERS' FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND**

**SECTION .0100 - ORGANIZATION OF THE FUND**

**20 NCAC 02N .0106 OFFICE OF THE DIRECTOR**

The Office of the Director is located at in the Longleaf Building, 3200 Atlantic Avenue, Raleigh, North Carolina and the mailing address is Retirement Systems Division, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604. Office hours are from 8 a.m. to 5 p.m., Mondays - Fridays, except legal holidays.

*Authority G.S. 58-86-10.*

**20 NCAC 02N .0108 DIVISIONAL RULES (READoption WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0200 - GENERAL PROVISIONS**

**20 NCAC 02N .0208 APPLYING FOR MEMBERSHIP**

(a) Only eligible firefighters firemen or eligible rescue squad workers may join the pension fund. In order to join the pension fund they must complete the application for membership and return it to the office of the ~~director~~, Director.

(b) Applications for membership may be obtained from the office of the ~~director~~ Director at the address shown in Rule .0106 of this Subchapter. The application asks for general information,

including the applicant's name, address, social security number, fire department or rescue squad, and his or her ~~length of service~~ first employment date with that department or squad.

~~(c) After receipt of a completed application, the director shall determine if the applicant is an eligible fireman or an eligible rescue squad worker. The director shall notify the applicant in writing of the determination.~~

~~(d)(c) If the director determines that the applicant is eligible to join the pension fund and after~~ After ~~the director~~ Director ~~has received the monthly payment required by G.S. 58-86-35 or 58-86-40, the director~~ Director ~~shall enroll the applicant in the pension fund~~ fund ~~and issue the applicant a membership identification card which contains the member's register number.~~

*Authority G.S. 58-86-10; 58-86-35; 58-86-40.*

## **20 NCAC 02N .0215      MILITARY SERVICE**

(a) Any member who enters the armed forces may take a military leave of absence as provided by Paragraph (b) of this Rule, continue to receive service credit as provided by Paragraph (c) of this Rule, or withdraw from ~~the~~ he pension fund and seek a ~~refund~~ refund ~~under Rule .0216 of this Section.~~

(b) To take a military leave of absence a member must provide written notice to the office of the ~~director~~ Director that ~~the~~ member ~~he or she~~ is taking such leave. The member shall specify in the notice the branch of the armed forces the member is entering and the expected dates of entry and discharge. The notice must be delivered to the office of the ~~director~~ Director no later than six months after the member ceases service as an eligible ~~firefighter~~ fireman or an eligible rescue squad worker, whichever is applicable, or the member will be deemed to have withdrawn from the pension fund. No member may remain on military leave of absence for more than one normal draft or enlistment period, whichever is applicable. Any member who has taken a military leave of absence must commence service as either an eligible ~~firefighter~~ fireman or an eligible rescue squad worker within six months after the expiration of a normal draft or enlistment period, whichever is applicable or within six months after the member's discharge if that occurs earlier, or the member will be deemed to have withdrawn from the pension fund. ~~The provisions of Rule .0214(c) of this Section are applicable to members on military leaves of absence.~~

(c) Any member who enters the armed forces may continue to receive service credit if ~~the member~~ he notifies the office of the ~~director~~ Director in writing of ~~the member's~~ his or her intent to do

~~so~~ so, and if ~~he or she~~ the member continues to make monthly payments required by G.S. 58-86-35 or 58-86-40. Credit for time served in the armed forces is limited to one normal draft or enlistment period, whichever is applicable.

*Authority G.S. 58-86-10.*

## **20 NCAC 02N .0218      RETIREMENT BENEFITS**

~~(a) In order to receive retirement benefits under G.S. 58-86-55 a member must submit to the office of the director an application for service retirement and the certification of retirement form. The applications and certifications will be processed at the end of the month; therefore, the application and certification must be filed with the office of the director at least 30 days prior to the last day worked if the applicant is to receive retirement benefits by the first of the month following his retirement.~~

~~(b) The application for service retirement is used to determine when benefits commence and the amount of benefits. The signature of the applicant must be notarized. The application asks for personal identification information including the member's name, his register number, age and designated beneficiary.~~

~~(c) The certification of retirement form asks the retiring member's fire chief or rescue squad captain to certify the date of retirement. The form asks for personal identification information such as the retiree's name, last date of employment, and the chief's or captain's certification of retirement.~~

~~(d) A member who has met all the requirements for receipt of a pension as set out in G.S. 58-86-55, and whose 20 years of service as an "eligible fireman" or "eligible rescue squad worker" were rendered exclusively through volunteer service, shall be deemed to be terminated and retired and therefore eligible to receive the monthly pension provided by G.S. 58-86-55 regardless of any capacity in which he/she may be employed or reemployed, including salaried positions as firemen or rescue squad workers.~~

~~(e) The forms described in Paragraphs (b) and (c) of this Rule may be obtained from the office of the director at the address shown in Rule .0106 of this Subchapter.~~

*Authority G.S. 58-86-10; 58-86-55.*

## **20 NCAC 02N .0219      REFUNDS OF DECEASED MEMBERS' PAYMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

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**APPROVED RULES**

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*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an \* in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

*Rules approved by the Rules Review Commission at its meeting on April 21, 2022 Meeting.*

**REGISTER CITATION TO THE  
NOTICE OF TEXT****AGRICULTURE, BOARD OF**

<u>Notification for Disconnection of Service</u>	02 NCAC	38	.0705*	36:12 NCR
<u>Incorporation by Reference</u>	02 NCAC	52L	.0101	36:12 NCR
<u>Definitions</u>	02 NCAC	52L	.0102*	36:12 NCR
<u>Farmed Cervid License</u>	02 NCAC	52L	.0104*	36:12 NCR
<u>Denial of Farmed Cervid License</u>	02 NCAC	52L	.0105	36:12 NCR
<u>Temporary Exhibit Permit</u>	02 NCAC	52L	.0106*	36:12 NCR
<u>Records and Inspection</u>	02 NCAC	52L	.0109	36:12 NCR
<u>Escape, Disappearance, or Breach of Facility</u>	02 NCAC	52L	.0110*	36:12 NCR
<u>Reporting CWD Symptoms and Farmed Cervid Death</u>	02 NCAC	52L	.0111	36:12 NCR
<u>Animal Identification</u>	02 NCAC	52L	.0112	36:12 NCR
<u>Transportation Permit</u>	02 NCAC	52L	.0113	36:12 NCR
<u>Enclosure Requirements</u>	02 NCAC	52L	.0201*	36:12 NCR
<u>License or Permit Revocation, Forfeiture, and Depopulation</u>	02 NCAC	52L	.0301*	36:12 NCR
<u>North Carolina Farmed Cervid Herd Certification Program</u>	02 NCAC	52L	.0401*	36:12 NCR
<u>North Carolina Monitored Herd Certification Program</u>	02 NCAC	52L	.0402	36:12 NCR

**HHS - HEALTH BENEFITS, DIVISION OF**

<u>Definitions</u>	10A NCAC	23A	.0102	36:10 NCR
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**LABOR, DEPARTMENT OF**

<u>Instructions for Filing a Petition for Rulemaking</u>	13 NCAC	01B	.0101*	36:13 NCR
<u>Mailing List</u>	13 NCAC	01B	.0102*	36:13 NCR
<u>Disposition of Petitions</u>	13 NCAC	01B	.0103	36:13 NCR

**ALCOHOLIC BEVERAGE CONTROL COMMISSION**

<u>Growlers</u>	14B NCAC	15C	.0307	36:13 NCR
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**ENVIRONMENTAL QUALITY, DEPARTMENT OF**

<u>Definitions of Terms</u>	15A NCAC	01D	.0102	36:10 NCR
<u>Proposed Industrial Project</u>	15A NCAC	01D	.0302*	36:10 NCR
<u>Proposed Pollution Control Project</u>	15A NCAC	01D	.0303*	36:10 NCR
<u>Proposed Hazardous Waste Facility</u>	15A NCAC	01D	.0305*	36:10 NCR

**ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>Definitions</u>	15A NCAC	02D	.1401*	36:08 NCR
<u>Applicability</u>	15A NCAC	02D	.1402	36:08 NCR
<u>Large Non-Electric Generating Units</u>	15A NCAC	02D	.1424*	36:08 NCR
<u>NOx SIP Call Budget</u>	15A NCAC	02D	.1425*	36:08 NCR

### **MARINE FISHERIES COMMISSION**

<u>Contested Case Hearing Procedures</u>	15A NCAC	03P .0102	36:07 NCR
<u>Declaratory Rulings: Generally</u>	15A NCAC	03P .0201	36:07 NCR
<u>Procedure for Requesting Declaratory Rulings</u>	15A NCAC	03P .0202	36:07 NCR
<u>Disposition of Requests for Declaratory Ruling</u>	15A NCAC	03P .0203	36:07 NCR
<u>Form and Contents of Petitions for Rulemaking</u>	15A NCAC	03P .0301*	36:07 NCR
<u>Review of Rulemaking Petitions by a Committee of the Comm...</u>	15A NCAC	03P .0302	36:07 NCR
<u>Presentation of Rulemaking Petitions to the Commission</u>	15A NCAC	03P .0303	36:07 NCR
<u>Recourse to Denial of the Petition</u>	15A NCAC	03P .0304	36:07 NCR
<u>Ocean Artificial Reefs</u>	15A NCAC	03R .0119	36:07 NCR

### **WILDLIFE RESOURCES COMMISSION**

<u>License Fees</u>	15A NCAC	10A .1601*	36:11 NCR
<u>Importation of Wild Animals and Birds</u>	15A NCAC	10B .0101*	36:11 NCR
<u>Migratory Game Birds</u>	15A NCAC	10B .0105*	36:11 NCR
<u>Restrictions on Raccoon and Opossum Hunting</u>	15A NCAC	10B .0111	36:11 NCR
<u>Wildlife Collectors</u>	15A NCAC	10B .0119*	36:11 NCR
<u>Limitations on Certain Exotic Species</u>	15A NCAC	10B .0123*	36:11 NCR
<u>Deer (White Tailed)</u>	15A NCAC	10B .0203	36:11 NCR
<u>Raccoon and Opossum</u>	15A NCAC	10B .0205	36:11 NCR
<u>Squirrels</u>	15A NCAC	10B .0206	36:11 NCR
<u>Tagging Furs</u>	15A NCAC	10B .0402	36:11 NCR
<u>Application for Tags</u>	15A NCAC	10B .0403*	36:11 NCR
<u>Public Mountain Trout Waters</u>	15A NCAC	10C .0205	36:11 NCR
<u>Striped Bass</u>	15A NCAC	10C .0314	36:11 NCR
<u>General Regulations Regarding Use</u>	15A NCAC	10D .0102*	36:11 NCR
<u>Use of Areas Regulated</u>	15A NCAC	10E .0104	36:11 NCR
<u>Sale of Native Turtles</u>	15A NCAC	10H .1301*	36:11 NCR
<u>Possession of Reptiles and Amphibians</u>	15A NCAC	10H .1302*	36:11 NCR
<u>Captivity License for Rehabilitation</u>	15A NCAC	10H .1402*	36:11 NCR

### **MEDICAL BOARD**

<u>Application for Physician License</u>	21 NCAC	32B .1303*	36:13 NCR
<u>Reinstatement of Physician License</u>	21 NCAC	32B .1350*	36:13 NCR
<u>Application for Resident's Training License</u>	21 NCAC	32B .1402*	36:13 NCR
<u>Physician Supervision of Physician Assistants</u>	21 NCAC	32S .0213*	36:13 NCR

### **PHARMACY, BOARD OF**

<u>Experience in Pharmacy and Pharmacy Internship</u>	21 NCAC	46 .1503*	36:12 NCR
<u>North Carolina-Specific Education for Permit Applicants</u>	21 NCAC	46 .1606*	36:12 NCR
<u>Out-Of-State Pharmacies</u>	21 NCAC	46 .1607*	36:12 NCR
<u>Extension of Period for Certain Members of the Armed Forces</u>	21 NCAC	46 .1613*	36:12 NCR
<u>E-Profile Number Required for License, Permit, or Registr...</u>	21 NCAC	46 .1615*	36:12 NCR
<u>Remote Work by Pharmacy Personnel</u>	21 NCAC	46 .2515*	36:12 NCR

*The following rules are subject to Legislative Review.*

### **MARINE FISHERIES COMMISSION**



<u>Research Sanctuaries</u>	15A NCAC	03I .0109	36:07 NCR
<u>Ocean Artificial Reef Gear Restrictions</u>	15A NCAC	03J .0404	36:07 NCR

**TITLE 02 - DEPARTMENT OF AGRICULTURE AND  
CONSUMER SERVICES**

**02 NCAC 38 .0705 NOTIFICATION FOR  
DISCONNECTION OF SERVICE**

(a) This Rule contains additional standards relating to the requirements for disconnection of service contained in G.S. 119-58(b).

(b) To "notify the former supplier before disconnecting the former service and connecting the new service," as required by G.S. 119-58(b), means that the new supplier shall provide the former supplier with written notice containing the new supplier's name, address and telephone number, the consumer's name and address, and stating the date and time after which service is to be disconnected. The notice may be sent by mail, overnight mail, facsimile, email, or by hand-delivery, so long as it is received prior to the disconnection of the former service.

*History Note: Authority G.S. 119-55; 119-58;  
Temporary Adoption Eff. January 1, 2003;  
Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. March 22, 2015;  
Amended Eff. May 1, 2022.*

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**02 NCAC 52L .0101 INCORPORATION BY  
REFERENCE**

(a) For the purpose of the rules in this Subchapter, the following regulations and standards are hereby incorporated by reference including any subsequent amendments and editions:

- (1) 9 C.F.R. Part 55;
- (2) 9 C.F.R. Part 81;
- (3) 9 C.F.R. Part 86; and
- (4) The United States Department of Agriculture's Chronic Wasting Disease Program Standards (May 2019).

(b) The regulations and standards incorporated by reference in Paragraph (a) of this Rule are available free of cost at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/cervid/cervids-cwd/cervids-voluntary-hcp>.

*History Note: Authority G.S. 106-549.97(a2);  
Eff. June 1, 2018;  
Amended Eff. May 1, 2022.*

**02 NCAC 52L .0102 DEFINITIONS**

(a) The definitions in the regulations and standards set forth in 02 NCAC 52L .0101 shall apply to such terms when used in this Subchapter, to the extent that they do not conflict with G.S. 106-549.97(a)(1) or Paragraph (b) of this Rule.

(b) The following definitions apply to this Subchapter:

- (1) "APHIS" means the United States Department of Agriculture Animal and Plant Health Inspection Service.
- (2) "Carcass" means the head, the whole animal, or tissue sample extracted in accordance with the USDA Standards, 9 C.F.R. 55.8 and 9 C.F.R. 55.23(b).
- (3) "Certified Herd" means any herd that has reached Certified status under an Approved State Chronic Wasting Disease Herd Certification Program as determined by the USDA in accordance with 9 C.F.R. 55.23(a) and 9 C.F.R. 55.24(a).
- (4) "CWD Testing" means official Chronic Wasting Disease ("CWD") testing in accordance with the USDA Standards, (6.2) Official CWD Test, and 9 C.F.R. 55.8.
- (5) "Diagnostic Laboratory" means the North Carolina Department of Agriculture and Consumer Services Veterinary Diagnostic Laboratory System.
- (6) "Facility" means a facility for farmed cervids.
- (7) "Fawns" or "calves" means cervids under one year of age.
- (8) "Herd Certification Program" means the North Carolina Farmed Cervid Herd Certification Program.
- (9) "ICVI" means interstate certificate of veterinary inspection.
- (10) "Licensed Facility" means any facility associated with a farmed cervid license.
- (11) "Licensee" means a person issued a farmed cervid license in accordance with the rules of this Subchapter and includes designees named by the licensee.
- (12) "Non-susceptible species" means Cervidae that are not known to be naturally susceptible to CWD.
- (13) "Officially Identified" means identification in accordance with 9 CFR 55.25.
- (14) "Susceptible species" means Cervidae that are known to be naturally susceptible to CWD.
- (15) "Temporary Exhibit" means a public display of farmed cervids including animal acts, educational displays, carnivals, circuses, parades, shopping center displays, and zoos, whether operated for profit or not.
- (16) "Veterinary Division" means the Veterinary Division of the North Carolina Department of Agriculture and Consumer Services.

(c) Farmed cervids are livestock in accordance with 9 C.F.R. 86.1.

*History Note: Authority G.S. 106-549.97(a2);  
Eff. June 1, 2018;  
Amended Eff. May 1, 2022.*

**02 NCAC 52L .0104 FARMED CERVID LICENSE**

**(a) Farmed Cervid License.**

- (1) Persons interested in obtaining a farmed cervid license shall apply with the Veterinary Division. The application may be obtained from the Veterinary Division by calling (919) 707-3250 or by emailing farmedcervid@ncagr.gov. The contents of the application shall include the following:
  - (A) the applicant's name;
  - (B) the applicant's address;
  - (C) the applicant's contact information, including telephone numbers and email addresses;
  - (D) the farm's name;
  - (E) the farm's address;
  - (F) the farm's contact information, including telephone numbers and email addresses;
  - (G) a statement of whether the farm is commercial, defined as a farmed cervid facility that is or will be selling cervid or cervid products as a for-profit business, or private, defined as non-commercial;
  - (H) a statement from the applicant verifying the information provided is accurate;
  - (I) the national premises identification number; and
  - (J) the applicant's signature.

- (2) Both licensees and persons interested in obtaining a farmed cervid license shall comply with 02 NCAC 52L .0401(c)(1) by enrolling susceptible species of farmed cervid herds in the Herd Certification Program.

**(b) Terms of License and Inventory Report.**

- (1) A farmed cervid license shall be valid from July 1 through June 30 for the year in which it was issued. If the new license is approved after July 1, it shall take effect on the date of issue.
- (2) Licensees may apply for renewal each year during the renewal period of October 1 through December 31. If December 31 falls on a weekend or holiday, then the renewals must be received by the Veterinary Division or postmarked by the next business day. The contents of the renewal application shall include:
  - (A) the licensee's name, address, and contact information, including telephone numbers and email addresses;

- (B) the farm name, address, and contact information, including telephone numbers and email addresses;
- (C) a statement from the licensee verifying the information provided is accurate; and
- (D) the licensee's signature.

- (3) Licensees shall submit a written inventory report in spreadsheet form with their license renewal. The inventory report shall include the:
  - (A) licensee's name, mailing address, telephone number, and email address;
  - (B) licensed facility name, address, and national premises identification number;
  - (C) farmed cervid license number;
  - (D) for susceptible species, the species, sex, and birth year of each susceptible species of farmed cervid;
  - (E) for susceptible species, the animal identification numbers for each susceptible species of farmed cervid;
  - (F) for susceptible species, the date of disposition or death of any susceptible species of farmed cervid; and
  - (G) for non-susceptible species, the total number and the type and number of each non-susceptible species of farmed cervid as of the date of the application or renewal.

- (4) The inventory report shall be accompanied by a statement from the licensee verifying the information provided is accurate.

**(c) Renewal of Farmed Cervid License.**

- (1) Existing farmed cervid licenses shall be renewed as long as the applicant for renewal continues to meet the licensing requirements of this Subchapter.
- (2) A person whose license has lapsed shall not be eligible for renewal, but may apply for a new license.

- (d) Only one license shall be associated with each farmed cervid facility and national premises identification number.

- (e) Each quarter, with the first quarter from January 1 to March 31, the second quarter from April 1 to June 30, the third quarter from July 1 to September 30, and the fourth quarter from October 1 to December 31, the licensee shall submit an updated inventory report to the Veterinary Division if susceptible species of fawns and calves were officially identified during that quarter. This update, if applicable, shall be submitted within 30 days of a quarter's end date.

*History Note: Authority G.S. 106-549.97(a2);  
Eff. June 1, 2018;  
Amended Eff. May 1, 2022.*

**02 NCAC 52L .0105 DENIAL OF FARMED CERVID LICENSE**

(a) Circumstances or purposes for which a farmed cervid license shall not be issued or renewed include the following:

- (1) failing to submit a complete application or renewal;
- (2) submitting falsified information;
- (3) for the purpose of holding non-farmed cervids or farmed cervids that were transported without a valid transportation permit;
- (4) for the purpose of rehabilitating non-farmed cervids;
- (5) for the purpose of commingling farmed and non-farmed cervids;
- (6) keeping any farmed cervid for reasons other than agricultural or commercial purposes, such as buying, selling, and production of farmed cervids, or for scientific, exhibition, and educational purposes;
- (7) to an individual under the age of 18 years of age;
- (8) failing to have susceptible species of farmed cervid herds enrolled in the Herd Certification Program with the Veterinary Division; or
- (9) the applicant has violated State or Federal laws or regulations for livestock or non-farmed cervids, and the State Veterinarian determines, in his or her experience, based upon the nature of the violation, the applicant may not comply with the requirements of the farmed cervid license.

(b) Any person whose farmed cervid license or permit has been revoked or suspended shall not be licensed within the period during which the order of revocation or suspension remains in effect.

(c) Any person who has been an officer, agent, or employee of a person whose farmed cervid license or permit has been revoked or suspended and who was responsible for, participated in, or worked for that person during the violation upon which the order of revocation or suspension was based, shall not be licensed for facilities owned by his or her employer or facilities in which he or she worked for at the time of the revocation or suspension within the period during which the order of revocation or suspension remains in effect.

(d) The Department shall not issue a farmed cervid license until a person has:

- (1) constructed or acquired a facility for keeping farmed cervids that complies with 02 NCAC 52L .0201; and
- (2) had the facility inspected and verified by the Veterinary Division.

(e) No farmed cervid license shall be issued to any person in possession of rehabilitative or non-farmed cervid.

*History Note: Authority G.S. 106-549.97(a2); Eff. June 1, 2018; Amended Eff. May 1, 2022.*

**02 NCAC 52L .0106 TEMPORARY EXHIBIT PERMIT**

(a) Temporary exhibit permits shall not be issued for the buying, selling, or production of farmed cervids.

(b) A temporary exhibit permit shall only be issued for Reindeer or Caribou.

(c) Temporary exhibit permit applications shall be submitted to the Veterinary Division. The application may be obtained from the Veterinary Division by calling (919) 707-3250 or by emailing farmedcervid@ncagr.gov. The contents of the application shall include the following:

- (1) the applicant's name;
- (2) the applicant's address;
- (3) the applicant's contact information, including telephone numbers and email addresses;
- (4) the farm's name;
- (5) the farm's address;
- (6) the farm's contact information, including telephone numbers;
- (7) the date(s) of the exhibit;
- (8) the date of exhibit inspection by the Veterinary Division, unless an exhibit facility plan was previously approved and includes the date of facility plan approval and approval number;
- (9) the purpose of the exhibit;
- (10) the location of the exhibit, including the county;
- (11) the species to be exhibited;
- (12) the sex, date of birth, species, and identification number(s) for each cervid to be exhibited;
- (13) a statement from the applicant verifying the information provided is accurate; and
- (14) the applicant's signature.

(d) Temporary exhibit permits are only valid for the dates and locations specified. Applicants shall apply to the Veterinary Division:

- (1) five business days prior to the date of exhibit if the exhibitor previously submitted a detailed exhibit facility plan that has been pre-approved by the Veterinary Division. The detailed exhibit facility plan shall include descriptions of how the animals will be contained, the type of fencing or containment utilized, whether the public will be able to touch the animals, whether the animals will move from a containment area to a parade, and whether if any physical restraints will be utilized, and includes photographs or sketches of the display and the display area; or
- (2) 60 days prior to the date of exhibit.

(e) The Veterinary Division shall only issue temporary exhibit permits when the temporary exhibit area is inspected by the Veterinary Division and meets the following criteria:

- (1) all farmed cervids to be exhibited are from a certified herd and officially identified in accordance with 9 C.F.R. 55.25;
- (2) the temporary exhibit enclosure, with the exception for farmed cervids exhibited during parades, shall:
  - (A) be an area of at least 10 feet by 10 feet;

- (B) have fencing at least eight feet in height with a ground clearance of no greater than three inches and sufficient in strength and stability to prevent escape, unless the animals are restrained to prevent escape;
- (C) have an enclosure large enough to ensure each animal has sufficient room, based on the size and species of the animal, to stand erect and lie naturally; and
- (D) have no exposed barbed wire, nails, or other protrusions that may cause injury to the animals shall be permitted within the enclosure;
- (3) farmed cervids exhibited shall be secured so that no farmed cervids may escape; and
- (4) the temporary exhibit complies with Aedin's Law, G.S. 106-520.3A, and 02 NCAC 52K when those laws and rules apply.

(f) All permit holders shall report any cervid escape, entry, or death within 24 hours of discovery to the Veterinary Division in accordance with 02 NCAC 52L .0110.

(g) Circumstances or purposes for which a temporary exhibit permit shall not be issued include:

- (1) failing to submit a complete application;
- (2) submitting a falsified application;
- (3) for the purpose of holding non-farmed cervids or farmed cervids that have been transported without a transportation permit;
- (4) for the purpose of rehabilitating non-farmed cervids;
- (5) for the purpose of commingling farmed and non-farmed cervids; and
- (6) to an individual under the age of 18 years of age.

(h) Any person whose farmed cervid license or temporary exhibit permit has been revoked or suspended shall not be issued a temporary exhibit permit within the period during which the order of revocation or suspension remains in effect.

(i) Any person who has been an officer, agent, or employee of a person whose farmed cervid license or permit has been revoked or suspended and who is responsible for, participated in, or worked for that person during the violation upon which the order of revocation or suspension was based, shall not be issued a permit for exhibits owned by his or her employer or exhibits in which he or she worked for at the time of the revocation or suspension within the period during which the order of revocation or suspension remains in effect.

(j) No temporary exhibit permit shall be issued to any person in possession of rehabilitative or non-farmed cervid.

*History Note: Authority G.S. 106-549.97(a2); Eff. June 1, 2018; Amended Eff. May 1, 2022.*

## **02 NCAC 52L .0109 RECORDS AND INSPECTION**

(a) Maintenance of Records.

- (1) Each licensee shall maintain herd records for all susceptible species of farmed cervids, regardless of whether tagged with animal identification or not, as required by the USDA Standards and 9 C.F.R. 55.23(b), and maintain a copy of any documents related to susceptible species of farmed cervids submitted to the CWD Diagnostic Laboratory.
- (2) All records required by this Subchapter and any ICVI as defined and required by 9 C.F.R. Part 86 shall be maintained by the licensee for a period of five years.

(b) Inspection of Records. The licensee shall make all records required under this Subchapter available for inspection and copying by the Veterinary Division.

(c) Inspection and Inventory of Licensed Facility and Exhibit. The licensee shall make all enclosures, exhibits, and any susceptible species of farmed cervid available for inspection by the Veterinary Division under conditions where all identification on the animals may be safely read by the inspector within a period of four hours. The licensee shall also make any farmed cervid available for inspection to allow the Veterinary Division to ascertain the species of any farmed cervid under the same conditions. The licensee shall be responsible for all costs incurred to present the animals for inspection and agree that any liability or injury to the animals during handling rests with the licensee.

(d) Fence Monitoring Requirement. The fence surrounding the enclosure shall be monitored weekly for structural soundness and stability by the licensee to prevent ingress and egress of any cervid.

(e) Maintenance.

- (1) Any opening or passage resulting from damage or deterioration to the perimeter fence shall be sealed by the licensee within 24 hours upon detection or the animals secured until the fence is repaired to prevent any farmed cervid escape.
- (2) Any damage to the enclosure fence that threatens its stability shall be repaired by the licensee within seven calendar days of detection, or within 24 hours if there is an imminent threat of farmed cervid escape.

*History Note: Authority G.S. 106-549.97(a2); Eff. June 1, 2018; Amended Eff. May 1, 2022.*

## **02 NCAC 52L .0110 ESCAPE, DISAPPEARANCE, OR BREACH OF FACILITY**

(a) When a licensee discovers the escape or disappearance of any farmed cervid, the licensee shall report the escape or disappearance within 24 hours by contacting the Veterinary Division by telephone at (919) 707-3250 or email at [farmedcervid@ncagr.gov](mailto:farmedcervid@ncagr.gov).

- (1) The report shall include for susceptible species the identification numbers, species, sex, and age of the animals involved and the estimated time and date of escape or disappearance, and if deceased, the estimated time and date of death.

- (2) A recaptured live farmed cervid shall be held in quarantine by itself or with other escapees by the licensee until the Veterinary Division determines the disposition of the farmed cervid, based on the risk of CWD transmission as a result of this escape. Failure to quarantine the escaped farmed cervid to prevent commingling with the herd shall result in the quarantine of the entire herd.
  - (3) The licensee shall be responsible for all costs associated with CWD testing and disposal of any escaped animal.
  - (4) If live recapture is not possible, the licensee shall harvest the escaped cervid if possible and submit the deceased cervid to the Diagnostic Laboratory for CWD testing.
- (b) When a licensee discovers the entry of any non-farmed cervid into the licensed facility, the licensee shall:
- (1) report the entry within 24 hours by contacting the Veterinary Division by telephone or email for further action or disposition of the non-farmed cervid;
  - (2) obtain a wildlife depredation permit from the North Carolina Wildlife Resources Commission. Contact information can be found at <http://www.ncwildlife.org/Licensing/Regulations/Nongame-and-Other-Regulations/Wildlife-Depredation#5836327-wildlife-taken-with-a-depredation-permit>;
  - (3) take the non-farmed cervid in accordance with the wildlife depredation permit; and
  - (4) submit the non-farmed cervid for CWD testing at no charge to the licensee.

*History Note: Authority G.S. 106-549.97(a2);  
Eff. June 1, 2018;  
Amended Eff. May 1, 2022.*

**02 NCAC 52L .0111 REPORTING CWD SYMPTOMS AND FARMED CERVID DEATH**

**(a) CWD Symptom Reporting:**

- (1) Each licensee shall notify the Veterinary Division by telephone upon discovery if any farmed cervid exhibits clinical symptoms of CWD, including loss of body condition, behavioral changes, excessive salivation, increased drinking and urination, depression, and eventual death. The Veterinary Division's telephone number is (919) 707-3250.
- (2) Farmed cervids that exhibit clinical symptoms of CWD shall not be transported unless directed by the Veterinary Division.
- (3) Regardless of age, the carcass of all farmed cervids that exhibited clinical symptoms of CWD shall be submitted to the Diagnostic Laboratory for CWD testing unless instructed otherwise by the Veterinary Division due to the condition of the carcass.

- (4) In cases where animals escape or disappear and are not available for tissue sampling and testing, or when the samples are of such poor quality, as determined in accordance with the USDA Standards, including Part A (5.3) Sample Collection and Submission Procedures, (5.4) Consequences of Poor Quality and Missing Samples, (6.4) Test Results, and (6.5) Rejected Samples, that they cannot be tested for CWD, the Veterinary Division may investigate, in cases of repeated unavailability of tissue sampling and testing, whether the unavailability of animals or usable samples for testing constitutes a failure to comply with program requirements and may affect the herd's status in the Herd Certification Program.
- (5) The Veterinary Division may require CWD testing or quarantine, or both, at any facility if the following circumstances or conditions occur:
  - (A) any herd or animal tested positive for CWD within the facility;
  - (B) the facility received farmed cervid from a facility that tested positive for CWD within five years;
  - (C) the facility may have been exposed to any CWD positive or suspect farmed cervid; or
  - (D) the facility transferred any farmed cervid that tests positive for CWD within five years of transfer.

**(b) Reporting Death:**

- (1) Licensees shall report to the Veterinary Division using a form provided by the Veterinary Division within 24 hours upon knowledge of the death of any susceptible species of farmed cervid, including any slaughtered susceptible species of farmed cervid, whether sent to a slaughterhouse or slaughtered at the farmed cervid facility for personal use. The report form can be obtained by contacting the Veterinary Division by telephone or email at [farmedcervid@ncagr.gov](mailto:farmedcervid@ncagr.gov). The report shall include the following information:
  - (A) the licensee's name, mailing address, telephone number, and email address;
  - (B) the licensee's facility name, address, and national premises identification number;
  - (C) the farmed cervid license number;
  - (D) the date of death;
  - (E) the species and sex of each susceptible species of farmed cervid;
  - (F) the animal identification for each susceptible species of farmed cervid;
  - (G) the name and location of the Diagnostic Laboratory where the carcass of the susceptible specie of



- (3) the farmed cervid license number or out-of-state CWD Herd Certification Program identification number;
  - (4) the species and sex of each farmed cervid;
  - (5) the animal identification for each farmed cervid;
  - (6) the destination name, address, telephone number, and email address; and
  - (7) the reason for the movement.
- (d) Transportation permit applications shall include the following information when applicable:
- (1) for any susceptible species of farmed cervid to be moved for slaughter, the name and location of the Diagnostic Laboratory where the carcass of the farmed cervid is to be submitted for CWD testing;
  - (2) for transporting farmed cervids to an exhibit, the exhibit permit number;
  - (3) for importing farmed cervid into the State, a copy of the ICVI as required by 9 C.F.R. Part 86; and
  - (4) for importing into the State any CWD susceptible farmed cervid, as identified by the Veterinary Division or the USDA, a copy of the negative antemortem CWD test result using a method approved by the USDA.
- (e) The transportation permit application shall be accompanied by a statement from the applicant verifying that the information provided is accurate.
- (f) No susceptible species of farmed cervids shall be exported out of State unless the animals have reached Certified status.
- (g) Transportation permits shall be valid for 30 calendar days unless otherwise stated on the permit.
- (h) Emergency Veterinary Treatment. An applicant seeking to transport any farmed cervid for veterinary treatment shall first contact the Veterinary Division by telephone or email to seek authorization. The telephone number is (919) 707-3250 and email address is farmedcervid@ncagr.gov. At the time of the request, the applicant shall provide to the Veterinary Division information listed under Paragraph (c) of this Rule.
- (i) No approval shall be issued for transportation of susceptible species of farmed cervid to a veterinary medical facility out-of-state.
- (j) Any verbal authorization from the Veterinary Division shall only allow transportation of the farmed cervid to the specified veterinary medical facility and directly back to the licensed facility, and shall not be construed to permit intervening destinations.
- (k) Licensees shall notify the Veterinary Division in writing, including the identification numbers of any farmed cervid not transported in accordance with the transportation permit, within seven calendar days after the expiration of the permit.
- (l) Any person transporting any farmed cervid shall present the transportation permit to any law enforcement officer or any representative of the Department upon request, except that a person transporting a farmed cervid by verbal authorization for emergency veterinary treatment shall provide the Veterinary Division's telephone number that the person contacted.

- (m) The licensee shall be responsible for securing all farmed cervids during transport so as to prevent escape.

*History Note: Authority G.S. 106-307.5; 106-549.97(a2); Eff. June 1, 2018; Amended Eff. May 1, 2022.*

## **02 NCAC 52L .0201 ENCLOSURE REQUIREMENTS**

- (a) The enclosure size for any farmed cervid, including any fawn or calf, shall be at least half of one acre.
- (b) Bodies of water and impassible areas shall not be counted towards the minimum enclosure size or the area for pen density.
- (c) The enclosure shall be surrounded by a fence:
  - (1) of sufficient strength and design to prevent ingress or egress of both farmed and non-farmed cervids under any circumstances;
  - (2) be at least eight feet high; and
  - (3) have a ground clearance of no greater than three inches.
- (d) Farmed cervids shall not be contained within or be allowed to enter a place of residence, except for fawns or calves on a temporary basis in the course of emergency veterinary treatment in accordance with guidance from a licensed veterinarian. Licensees shall be responsible for securing all farmed cervids so as to prevent escape during transport or at the residence.
- (e) No exposed barbed wire, nails, or other protrusions that may cause injury to the animals shall be permitted within the enclosure.
- (f) If a person intends to maintain two or more separate herds, that person shall maintain separate herd inventories, records, working facilities, water sources, equipment, and land use. There shall be a buffer zone of at least 30 feet between the perimeter fencing around separate herds, and no commingling of animals shall occur. Movement of animals between herds shall be recorded as if they were separately owned herds.
- (g) All additional farmed cervid enclosures added after a farmed cervid license has been issued shall first be inspected by the North Carolina Department of Agriculture and Consumer Services and comply with the enclosure requirements of this Section prior to the housing of any farmed cervids.

*History Note: Authority G.S. 106-549.97(a2); Eff. June 1, 2018; Amended Eff. May 1, 2022.*

## **02 NCAC 52L .0301 LICENSE OR PERMIT REVOCATION, FORFEITURE, AND DEPOPULATION**

- (a) The Veterinary Division may take one or more of the following actions based on the nature of the violation against any person for failure to comply with the requirements of G.S. 106-549.97, 9 C.F.R. Part 55, 9 C.F.R. Part 81, the USDA Standards, or this Subchapter:
  - (1) issue warnings;
  - (2) revoke any license or permit issued under this Subchapter;
  - (3) cancel the enrollment in the Herd Certification Program; or
  - (4) reduce the status of a herd in accordance with 02 NCAC 52L .0401(g).

(b) In addition to Paragraph (a) of this Rule, the Veterinary Division may direct the disposition of any farmed cervid in possession by a person without a valid farmed cervid license or permit in accordance with Paragraph (e) of this Rule and may order any farmed cervid brought into this State illegally be quarantined, tested for CWD, or terminated, or any combination thereof.

(c) Violations of this Subchapter include the following circumstances or conditions:

- (1) providing inaccurate or false information to the Veterinary Division;
- (2) failing to comply with animal identification requirements;
- (3) failing to comply with facility enclosure and maintenance requirements;
- (4) failing to comply with monitoring or record-keeping requirements;
- (5) failing to allow the Veterinary Division to inspect any facility, farmed cervid, or record;
- (6) failing to report the death, escape, or disappearance, of any farmed cervid; or
- (7) failing to submit deceased farmed cervid for CWD testing.

(d) The Veterinary Division may revoke a farmed cervid license or temporary exhibit permit, or both, under any of the following circumstances or conditions:

- (1) the farmed cervid licensee or temporary exhibit permit holder fails to report symptoms of chronic wasting disease in a farmed cervid to the Veterinary Division as required by 02 NCAC 52L .0111;
- (2) the farmed cervid licensee or temporary exhibit permit holder fails to transport and submit a farmed cervid carcass to a Diagnostic Laboratory for CWD testing as required by 02 NCAC 52L .0111; or
- (3) the farmed cervid licensee or temporary exhibit permit holder has transported any farmed cervid without a permit in accordance with 02 NCAC 52L .0113.

(e) Disposition of Farmed Cervid.

- (1) In the event of decommissioning a facility, all farmed cervids shall be disposed of by the owner in one or more of the following manners:
  - (A) sell or otherwise transfer ownership and possession of any farmed cervid;
  - (B) export out of state any farmed cervid; or
  - (C) terminate any remaining farmed cervid.
- (2) In the event the Veterinary Division directed the disposition of any farmed cervid and the owner refuses to comply, the Veterinary Division may terminate the farmed cervid, with costs to be paid by the owner.
- (3) The release of any farmed cervid to the wild by any person is prohibited.

(f) Disposal of Dead Farmed Cervids.

- (1) Licensees shall be responsible for the disposal of any dead farmed cervid carcass in accordance with applicable laws and regulations and the costs associated with disposal.
- (2) The carcass of farmed cervids that have been designated by the Department as CWD-positive, exposed, or suspect shall be disposed of in accordance with the USDA Standards, Part B (7) Carcass Disposal, and using one of options provided under the USDA Standards.
- (3) The carcass of farmed cervids that have not been designated by the Department as CWD-positive, exposed, or suspect may be disposed of in accordance with 02 NCAC 52C .0102.

*History Note: Authority G.S. 106-549.97(a2);  
Eff. June 1, 2018;  
Amended Eff. May 1, 2022.*

**02 NCAC 52L .0401 NORTH CAROLINA FARMED CERVID HERD CERTIFICATION PROGRAM**

(a) Scope. This Rule shall only apply to susceptible species of farmed cervids.

(b) Enrollment Qualifications.

- (1) Only applicants that have a valid farmed cervid license or have applied for one shall be eligible to have herds enrolled in the Herd Certification Program.
- (2) Applicants shall comply with all farmed cervid license requirements and rules in this Subchapter in order to have herds enrolled and remain in the Herd Certification Program.

(c) Enrollment Application.

- (1) Persons who possess any susceptible species of farmed cervid in the State shall apply with the Veterinary Division to have herds enrolled in the Herd Certification Program, if not already enrolled.
- (2) The Veterinary Division shall determine the herd's enrollment eligibility and compliance with all farmed cervid license rules, and may request additional information regarding the herd animals and operations, such as laboratory reports, movement permits, animal species, and slaughter records to verify the origination of the animals and their status.
- (3) The Veterinary Division shall deny enrollment if:
  - (A) the applicant submits an incomplete farmed cervid license application;
  - (B) the applicant has provided false information;
  - (C) the applicant fails to provide additional information requested by the Veterinary Division;
  - (D) the applicant previously violated State or Federal laws or regulations for livestock or non-farmed cervids, and



- the State Veterinarian determines, based on his or her experience, that the nature of the violation indicates that the applicant may not comply with the requirements of the Herd Certification Program;
- (E) the herd to be enrolled has been designated as CWD-positive, exposed, or suspect by the Veterinary Division or by an APHIS employee, and has not yet entered into a valid herd plan;
- (F) any pending or outstanding citation exists against the applicant;
- (G) the applicant has failed to comply with any farmed cervid license requirement; or
- (H) the applicant refuses inspection by the Veterinary Division in accordance with Paragraph (i) of this Rule.
- (4) Upon determining that a herd is eligible to participate in the Herd Certification Program in accordance with Paragraphs (b) and (c) of this Rule, the Veterinary Division shall send the applicant a notice of enrollment of the herd's enrollment date.
- (d) Enrollment Dates. The enrollment date for a herd that joins the North Carolina Herd Certification Program after August 13, 2012, shall be the date the herd is approved for participation upon inspection except:
  - (1) for new herds that were formed from and contain only animals from herds enrolled in an Approved State CWD Herd Certification Program, the enrollment date shall be the latest enrollment date for any source herd for the animals;
  - (2) the first day that the herd participated in any state program that APHIS at a later date determines qualifies as an Approved State CWD Herd Certification Program; or
  - (3) any other exception provided under 9 C.F.R. 55.22(b).
- (e) Initial and Subsequent Herd Status.
  - (1) When a herd is first enrolled in the Herd Certification Program, it shall be placed in the First Year status, unless the herd is composed only of animals obtained from herds already enrolled in the Herd Certification Program, or another USDA approved state CWD herd certification program, the newly enrolled herd shall have the same status as the lowest status of any herd that provided animals for the new herd.
  - (2) If the herd continues to meet the requirements of this Subchapter, each year, on the anniversary of the enrollment date, the herd status shall be upgraded by one year as follows:
    - (A) First Year – starts on enrollment date of the herd in the CWD Herd Certification Program.
    - (B) Second Year – starts on the anniversary date of the First Year.
    - (C) Third Year – starts on the anniversary date of the Second Year.
    - (D) Fourth Year – starts on the anniversary date of the Third Year.
    - (E) Fifth Year – starts on the anniversary date of the Fourth Year.
  - (3) One year from the date a herd is placed in Fifth Year status, the herd status shall be changed to Certified, and the herd shall remain in Certified status as long as it is enrolled in the program, provided its status is not lost or suspended.
- (f) Loss or Suspension of Herd Status.
  - (1) If the Veterinary Division determines that animals from a herd enrolled in the Herd Certification Program have commingled with animals from a herd with a lower program status, the herd with the higher program status shall be reduced to the status of the herd with which its animals commingled.
  - (2) If a herd is designated a CWD-positive herd or a CWD-exposed herd by the Veterinary Division, it shall upon designation lose its program status and may only reenroll after entering into a herd plan.
  - (3) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd by the Veterinary Division, it shall upon designation be placed in Suspended status pending an epidemiologic investigation by the Veterinary Division in accordance with the USDA Standards. If the epidemiologic investigation:
    - (A) determines that the herd was not commingled with a CWD-positive animal, the herd shall be reinstated to its former program status, and the time spent in Suspended status shall count toward its promotion to the next herd status level;
    - (B) determines that the herd was commingled with a CWD-positive animal, the herd shall lose its program status and shall be designated a CWD-exposed herd;
    - (C) is unable to make a determination regarding the exposure of the herd, because the necessary animal or animals are no longer available for testing (i.e., a trace animal from a known positive herd died and was not tested) or for other reasons, the herd status shall continue as Suspended until a herd plan is developed for the herd in accordance with its definition under 9 C.F.R. 55.1 and the USDA Standards, Part B. Guidance on Responding to CWD Affected Herds. If a herd plan is developed and

implemented, the herd shall be reinstated to its former program status, and the time spent in Suspended status shall count toward its promotion to the next herd status level. If the epidemiological investigation finds that the licensee of the herd has not complied with the rules of this Subchapter for animal identification, animal testing, and recordkeeping, the herd shall be reinstated into the Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status. Any herd reinstated after being placed in Suspended status shall then comply with the requirements of the herd plan as well as the requirements of the Herd Certification Program. The herd plan shall require testing of all animals that die in the herd for any reason, regardless of the age of the animal; whenever it is required by federal law, may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question; and whenever it is required by federal law, may include other requirements found necessary to control the risk of spreading CWD.

(g) Cancellation of Enrollment and Reduction of Herd Status.

- (1) A licensee may cancel participation of any herd in the Herd Certification Program by surrendering the licensee's farmed cervid license in accordance with 02 NCAC 52L .0108 and by decommissioning the facility in accordance with 02 NCAC 52L .0301(e)(1).
- (2) The Veterinary Division may cancel the enrollment or reduce the herd status of an enrolled herd after determining that the licensee failed to comply with any rule of this Subchapter, by giving written notice to the licensee of the reasons for the cancellation or reduction in status.
- (3) To appeal the designation of an animal as CWD-positive, cancellation of enrollment of a herd, or loss or suspension of herd status, the procedures set forth under 9 CFR 55.24(c) shall govern.

(h) Adding Animals to Existing Herd.

- (1) A herd may add animals from herds with the same or a higher herd status with no negative impact on the certification status of the receiving herd.
- (2) If animals are acquired from a herd with a lower herd status, the receiving herd shall revert to the program status of the sending herd.

- (3) If a herd participating in the Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd shall revert to First Year status with a new enrollment date as the date of acquisition of the animal.

(i) Inspection. If an inspection of any farmed cervid is needed as a part of enrollment, including reinstating a suspended status, the licensee shall be responsible for assembling, handling, and restraining the farmed cervids. The licensee shall be responsible for all costs incurred to present the animals for inspection and agree that any liability or injury to the animals during handling rests with the licensee in accordance with the USDA Standards, (2.1) Participating Herd: Requirements for Enrollment.

(j) A licensee may commingle non-susceptible species of farmed cervid with susceptible species of farmed cervid without affecting the herd status of the susceptible species. This exception shall not apply to non-farmed cervids or to non-susceptible species that are later determined by the Department to be CWD susceptible.

*History Note: Authority G.S. 106-549.97(a2);*

*Eff. June 1, 2018;*

*Amended Eff. May 1, 2022.*

**02 NCAC 52L .0402 NORTH CAROLINA  
MONITORED HERD CERTIFICATION PROGRAM**

*History Note: Authority G.S. 106-549.97(a2);*

*Eff. June 1, 2018;*

*Repealed Eff. May 1, 2022.*

**TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN  
SERVICES**

**10A NCAC 23A .0102 DEFINITIONS**

For purposes of this Chapter, the following definitions apply:

- (1) "M-AA" means a program of medical assistance to persons 65 years of age and older, and also means the assistance itself.
- (2) "M-AB" means a program of medical assistance to blind persons, and also means the assistance itself.
- (3) "M-AD" means a program of medical assistance to disabled persons less than 65 years of age, and also means the assistance itself.
- (4) "M-AF" means a program of medical assistance for families and children, and also means the assistance itself.
- (5) "M-IC" means a program of medical assistance for infants and children, and also means the assistance itself.
- (6) "M-PW" means a program of medical assistance for pregnant women, and also means the assistance itself.
- (7) "M-QB" means a program of medical assistance for qualified Medicare beneficiaries described at 42 U.S.C. 1396d(p), and also means the assistance itself.

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| <p>(8) "AFDC" means a program of assistance for families with dependent children, and also means the assistance itself.</p> <p>(9) "AFDC-MA" has the same meaning as "M-AF".</p> <p>(10) "Adequate Notice" means a written notice to inform the client of intended action. The client must receive this notice no later than the effective date of the action.</p> <p>(11) "Advance Notice" means a written notice to inform the client at least 10 work days prior to terminating assistance, beginning or increasing a deductible, or beginning or increasing patient monthly liability.</p> <p>(12) "Agency" means the Division of Health Benefits and the county departments of social services, unless separately identified.</p> <p>(13) "Appeal" means an oral or written request from a client for a hearing to review the action of a county department of social services or the disability decision when the client is dissatisfied with the decision in his case.</p> <p>(14) "Application" means a written request for assistance on a form prescribed by the state that is signed under penalty of perjury by a client or an individual authorized by the client to be his representative for establishing his eligibility for medical assistance.</p> <p>(15) "Authorization Period" means the period for which all conditions of eligibility have been established and for which the client is authorized to receive a Medicaid card and benefits.</p> <p>(16) "Award Letter" means a statement to an individual from a governmental or private agency indicating benefits for which he is eligible.</p> <p>(17) "BENDEX" means Beneficiary Data Exchange with the Social Security Administration for social security status and amount of benefits.</p> <p>(18) "Budget Unit" means all persons whose income and needs are considered in the determination of eligibility for Medicaid.</p> <p>(19) "Certification Period" means the months for which eligibility is being established.</p> <p>(20) "Client" means any applicant for or recipient of Medicaid, or someone who makes inquiries, is interviewed, or has been otherwise served or someone acting for the client.</p> <p>(21) "Client Information" or "Client Record" means any information, including information stored in computer data banks or computer files relating to a client that was received in connection with the performance of any function of the agency.</p> <p>(22) "Collateral" means a person or agency who can substantiate or verify information necessary to establish eligibility.</p> | <p>(23) "Contiguous Property" means real property with boundaries joining the homesite of the client.</p> <p>(24) "Court Order" means any written order from a judge or a written document from a judicial official that explicitly directs the release of client information.</p> <p>(25) "Deductible" means the amount that the client or budget unit member must personally spend or incur for medical expenses before he can be authorized to receive a Medicaid card and services that may be billed to the Medicaid program.</p> <p>(26) "Delegated Representative" means a staff member designated by the director to carry out the responsibilities established by the rules in this Subchapter. Designation is implied when the assigned duties of an employee require access to confidential information.</p> <p>(27) "Deprivation" means the lack of support or care from one or both parents (including adoptive parents) of a dependent child, as a result of the absence, incapacity, unemployment, or death of either parent.</p> <p>(28) "Director" means the head of the Division of Health Benefits or the county department of social services.</p> <p>(29) "Disregard of Earned Income" means the procedure for exempting portions of earned income as a resource when determining the amount of payment.</p> <p>(30) "Documentary Evidence" means information or records that can be relied on to prove the client's statements of fact.</p> <p>(31) "Effective Date" means the date on which an action will take effect.</p> <p>(32) "Equity" means the tax value of a resource less the amount of debts, liens, or other encumbrances.</p> <p>(33) "Excluded Income" means money received by a member of the budget unit that is not counted in determining eligibility for assistance.</p> <p>(34) "Foster Care Resource" means any private home or facility licensed to provide full time care to children.</p> <p>(35) "Fraud" means an act in which a client makes false statements or withholds information willfully and knowingly with the intent to deceive, or both, and as a result obtains assistance for which he is not eligible.</p> <p>(36) "Full-Time Student" means a student so designated by the school in which he is enrolled.</p> <p>(37) "Good Cause" includes death, incapacity, hospitalization of the applicant/recipient (a/r), failure to receive written notice, or failure of a representative acting on the a/r's behalf to meet required time frames.</p> |
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- (38) "Grandfathered Status" means Medicaid eligibility based on the individual's status as a blind or disabled client or as an essential spouse of aged, blind, or disabled client in December, 1973.
- (39) "Greater Weight of Evidence" means evidence of such quality as to persuade an ordinary and prudent person of the truth or falsity of a statement.
- (40) "Guardian" means an individual, corporation, or disinterested public agent appointed by the clerk of superior court to replace an individual's authority to make decisions about his person, family, or property when the individual does not have adequate capacity to make such decisions and has been adjudicated incompetent. A guardian may be a guardian of the person, a guardian of the estate, or a general guardian which is guardian of both the person and the estate.
- (41) "HCT (Healthy Children and Teens)" means a program which provides health screenings and treatment for clients from birth through age 20.
- (42) "Incapacity" has the same meaning as in the North Carolina State plan approved under Part A of Title IV of the Social Security Act as in effect on July 16, 1996, as is required by 42 U.S.C. 1396u-1.
- (43) "Income" means money that is available to members of the budget unit for their needs.
- (44) "Income, Earned" means money received as a result of employment.
- (45) "Income, Gross" means total income before allowable deductions.
- (46) "Income, Net" means income after all allowable deductions.
- (47) "Income, Unearned" means money received from any source other than employment.
- (48) "Incompetent Adult" means an adult who lacks sufficient capacity to manage his own affairs or to make or communicate decisions concerning his person, family, or property whether such lack of capacity is due to mental illness, mental retardation, epilepsy, cerebral palsy, autism, senility, disease, injury, or similar cause or condition.
- (49) "Inmate of a Public Institution" means a person who lives in an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control and that provides treatment or services, food and shelter.
- (50) "Institutionalized Spouse" means an individual who:
- (a) is in a medical institution or nursing facility or who is described under 42 U.S.C. 1396a (a)(10)(A)(ii)(VI); and
  - (b) is married to an individual who is not in a medical institution or nursing facility; but does not include any such individual who is not likely to meet the requirements of Sub-item (a) of this Item for at least 30 consecutive days.
- (51) "Life Estate Interest" means the right to use property and receive income from the property for the remainder of one's life.
- (52) "Long-Term Care" means care in:
- (a) general or specialty hospital in excess of 30 continuous days;
  - (b) a state mental hospital;
  - (c) a skilled nursing facility; or
  - (d) an intermediate care facility.
- (53) "Patient Monthly Liability" means the amount of a long-term care patient's income that must be paid towards his cost of care.
- (54) "Remainder Interest" means ownership interest in property that will be inherited in full or jointly with other remainder interest holders at a life interest holder's death.
- (55) "Representative" means a person who is authorized by the client to act on behalf of the client.
- (56) "Reserve" means assets owned by members of the budget unit and that have a market value.
- (57) "Residence" means the county where a client lives with intent to remain for an indefinite time as governed by 10A NCAC 23E .0103. Also, an individual under age 21 has the residence of the person with whom he resides unless he is in the custody of a social services agency, in which case he is a resident of the county of the custodial agency.
- (58) "Revocable Trust" means funds held in trust that are available for the client's use.
- (59) "RSDI (Retirement, Survivors, Disability Insurance)" means social security benefits.
- (60) "SDX" means State Data Exchange with the Social Security Administration for the purpose of providing a listing of all persons receiving supplemental security income, their current payment status and amount of SSI and other sources of income.
- (61) "SSI" means Supplemental Security Income, a federal assistance payment for aged, blind and disabled persons administered by the Social Security Administration.
- (62) "Stepparent" means that a person is not the parent of a child but the person is married to the parent of the child who wants to receive Medicaid.
- (63) "Timely Notice" means the same as "Advance Notice".
- (64) "Time Standard" means the requirement to process an application within 45 or 90 days from the date of application in accordance with 42 C.F.R. 435.911.
- (65) "Verification" means the confirmation of facts and information used in determining eligibility.

*History Note:* Authority G.S. 108A-25(b); 108A-54; P.L. 99-509; P.L. 100-360; P.L. 100-485; 42 C.F.R. 431.211; 42 C.F.R. 431.214; *Alexander v. Bruton*, U.S.D.C., File No. C-C-74-183-M, Consent Order dismissed effective February 1, 2002; Eff. September 1, 1984; Amended Eff. August 1, 1990; Temporary Amendment Eff. March 1, 2003; Amended Eff. August 1, 2004; Transferred from 10A NCAC 21A .0201 Eff. May 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. May 1, 2022; March 1, 2020.

## **TITLE 13 - DEPARTMENT OF LABOR**

### **13 NCAC 01B .0101 INSTRUCTIONS FOR FILING A PETITION FOR RULE-MAKING**

(a) Any person may petition the Commissioner of Labor to adopt a new permanent rule, or amend or repeal an existing permanent rule by submitting a rule-making petition to the Rulemaking Coordinator, N.C. Department of Labor, 1101 Mail Service Center, Raleigh, NC 27699-1101.

(b) The petition shall be titled "Petition for Rule-making" and shall include the following information:

- (1) the name and address of the person submitting the petition;
- (2) a citation to any rule for which an amendment or repeal is requested;
- (3) the text of any proposed rule or amended rule; and
- (4) a statement of the effect of the requested rule change on the Department of Labor to include the effect on those over whom the agency has jurisdiction.

(c) The petition may include the following to provide clarifying information to the Commissioner of Labor:

- (1) documents or data supporting the petition;
- (2) a statement of the reasons for adoption of the proposed rule(s), amendment, or repeal of an existing rule(s), to include why the proposed rule(s) or amendment is requested;
- (3) a statement explaining the costs and computation of the cost factors, if known;
- (4) a description, including named entities, if known, of those most likely to be affected by the proposed rule(s);
- (5) the statutory authority for the agency to promulgate the rule(s); and
- (6) any other information the person submitting the petition considers relevant.

(d) The Commissioner of Labor shall grant or deny a petition for rule-making within 30 days of the date the rule-making petition is received by the agency. In making the decision, the Commissioner of Labor shall consider the information submitted with the petition and any other relevant information.

(e) In the review of the proposed permanent rule, the Commissioner of Labor shall consider whether the Department has authority to adopt the rule; the effect of the proposed rule on

existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and regulated entities.

(f) When the Commissioner of Labor denies a petition for rule-making, a written notice of the denial shall be sent to the person who submitted the request. The notice shall state the reason for the denial.

(g) When the Commissioner of Labor grants a rule-making petition, the Rulemaking Coordinator shall initiate permanent rule-making proceedings and send written notice of the proceedings to the person who submitted the request.

*History Note:* Authority G.S. 95-4(2); 150B-20; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 1, 2001; July 1, 1988; December 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Amended Eff. May 1, 2022; January 1, 2020.

### **13 NCAC 01B .0102 MAILING LIST**

(a) Any person or agency desiring to be placed on the mailing list for the Department's rule-making notices issued pursuant to G.S. 150B-21.2(d) may file a request in writing to the Commissioner of the Department at 1101 Mail Service Center Raleigh, NC 27699-1101.

(b) The request shall:

- (1) include the person's name and address;
- (2) specify the subject areas within the authority of the Department for which notice is requested; and
- (3) state the calendar year(s) for which the notice is desired.

*History Note:* Authority G.S. 95-4(2); 150B-21.2; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 1, 2001; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Amended Eff. May 1, 2022.

### **13 NCAC 01B .0103 DISPOSITION OF PETITIONS**

*History Note:* Authority G.S. 95-4(2); 150B-16; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 1, 2001; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Repealed Eff. May 1, 2022.

## **TITLE 14B - DEPARTMENT OF PUBLIC SAFETY**

### **14B NCAC 15C .0307 GROWLERS**

(a) As used in this Section, a "growler" is a rigid glass, ceramic, plastic, aluminum, or stainless steel container with a closure or cap with a secure sealing that is no larger than 4 liters (1.0567

gallons) into which a malt beverage or unfortified wine is prefilled, filled, or refilled for off-premises consumption.

(b) Malt beverages may be sold in growlers as follows:

- (1) Holders of only a brewery permit may sell, deliver, and ship growlers prefilled with the brewery's malt beverage for off-premises consumption provided a label is affixed to the growler that provides the information as required by Rules .0303(a) and .0305 of this Section.
- (2) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), or (16) who do not hold a brewery permit shall not prefill growlers with malt beverage.
- (3) Holders of a brewery permit who also have retail permits pursuant to G.S. 18B-1001(1) may fill or refill growlers on demand with the brewery's malt beverage for off-premises consumption, provided the label as required by Rules .0303(b) and (c) and .0305 of this Section is affixed to the growler.
- (4) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), or (16) may fill or refill growlers on demand with draft malt beverage for off-premises consumption, provided the label as required by Rules .0303(b) and (c) and .0305 of this Section is affixed to the growler.

(c) Unfortified wine may be sold in growlers as follows:

- (1) Holders of only an unfortified winery permit may sell, deliver, and ship growlers prefilled with the winery's unfortified wine for off-premises consumption provided a label is affixed to the growler that provides the information as required by Rules .0304(a), (b), and (c), and .0305 of this Section.
- (2) Holders of retail permits pursuant to G.S. 18B-1001(3), (4), or (16) who do not hold an unfortified winery permit shall not prefill growlers with unfortified wine.
- (3) Holders of an unfortified winery permit who also have retail permits pursuant to G.S. 18B-1001(3) may fill or refill growlers on demand with the winery's unfortified wine for off-premises consumption, provided the label as required by Rules .0304(d) and (e) and .0305 of this Section is affixed to the growler.
- (4) Holders of retail permits pursuant to G.S. 18B-1001(3), (4), or (16) may fill or refill growlers on demand with unfortified wine for off-premises consumption, provided the label as required by Rules .0304(d) and (e) and .0305 of this Section is affixed to the growler.

(d) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16) shall affix a label as required by Rules .0303(b) and (c), .0304(d) and (e), and .0305 of this Section to the growler when filling or refilling a growler.

(e) Holders of retail permits pursuant to G.S. 18B-1001(1), (2), (3), (4), or (16), may, in their discretion, refuse to fill or refill a

growler, except in matters of discrimination pursuant to G.S. 18B-305(c).

*History Note: Authority G.S. 18B-100; 18B-206(a); 18B-207; 18B-305; 18B-1001; Eff. April 1, 2011; Temporary Amendment Eff. October 25, 2013; Amended Eff. September 1, 2014; Transferred and Recodified from 04 NCAC 02T .0308 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017; Temporary Amendment Eff. November 28, 2017; Amended Eff. May 1, 2022; August 1, 2018.*

## **TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **15A NCAC 01D .0102 DEFINITIONS OF TERMS**

The terms used in this Subchapter shall be as defined in G.S. 159C-3 and as follows:

- (1) "DEQ" means the Department of Environmental Quality.
- (2) "Secretary" means the Secretary of DEQ or his or her appointed designee.
- (3) "Project certification" means a written statement by the Secretary, that a proposed industrial project will meet the criteria contained in Rule .0302 of this Subchapter, a proposed pollution control project will meet the criteria contained in Rule .0303 of this Subchapter, or a proposed hazardous waste facility will meet the criteria contained in Rule .0305 of this Subchapter.

*History Note: Authority G.S. 159C-7(d); Eff. June 16, 1977; Amended Eff. March 1, 1990; July 1, 1988; Readopted Eff. May 1, 2022.*

### **15A NCAC 01D .0302 PROPOSED INDUSTRIAL PROJECT**

In the case where the Secretary of the Department of Commerce requests a project certification for a proposed industrial project or for a proposed industrial project that includes a pollution control project, the Secretary shall certify that the project will not have a materially adverse effect on the environment if the Secretary determines that no applicable State and federal environmental laws, rules, standards, or limitations will be violated, that use of water by the proposed industrial project will not substantially affect other users, and that the proposed project will have no other materially adverse effect on the environment. Issuance to the operator of the proposed project of the required environmental permits indicates that certain environmental impacts of the proposed project were evaluated, and the Secretary may consider such evaluations in making a certification decision.

*History Note: Authority G.S. 159C-7(d);*

*Eff. June 16, 1977;*  
*Amended Eff. March 1, 1990; July 1, 1988;*  
*Readopted Eff. May 1, 2022.*

**15A NCAC 01D .0303 PROPOSED POLLUTION CONTROL PROJECT**

In the case where the Secretary of the Department of Commerce requests a project certification for a proposed pollution control project, the Secretary shall certify that the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of the pollution that would otherwise occur, as set forth in G.S. 159C-7(d), if the Secretary determines that: the proposed project meets all applicable State and federal emission control standards, water effluent limitations, pretreatment standards, new source performance standards, and toxic substances emission effluent limitations; does not contravene ambient air or water quality standards; and has an otherwise materially favorable impact on the environment. Issuance to the operator of the proposed project of the required environmental permits indicates that certain environmental impacts of the proposed project were evaluated, and the Secretary may consider such evaluations in making a certification decision.

*History Note: Authority G.S. 159C-7(d);*  
*Eff. June 16, 1977;*  
*Amended Eff. March 1, 1990; July 1, 1988;*  
*Readopted Eff. May 1, 2022.*

**15A NCAC 01D .0305 PROPOSED HAZARDOUS WASTE FACILITY**

In the case where the Secretary of the Department of Commerce requests a project certification for a hazardous waste facility, the Secretary shall certify that the proposed project is environmentally sound, will not have an adverse effect on public health, and will further the waste management goals of North Carolina, in accordance with G.S. 159C-7(d), if the Secretary determines that the proposed project meets applicable State and federal laws and regulations, has applied for and received the required environmental permits, including those outlined in G.S. 130A-295, 130A-295.01, and 130A-295.04 for hazardous waste facilities, and meets the current and anticipated waste management needs of the State. Issuance to the operator of the proposed project of the required environmental permits indicates that certain environmental impacts of the proposed project were evaluated, and the Secretary may consider such evaluations in making a certification decision.

*History Note: Authority G.S. 159C-7(d);*  
*Eff. May 1, 2022.*

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**15A NCAC 02D .1401 DEFINITIONS**

(a) For the purpose of this Section, in addition to the definitions in G.S. 143-212, G.S. 143-213, and 15A NCAC 02D .0101, the following definitions shall apply. If a term in this Rule is also defined at 15A NCAC 02D .0101, then the definition in this Rule controls.

- (1) "Acid Rain Program" means the federal program for the reduction of acid rain including 40 CFR Parts 72, 75, 76, and 77.
- (2) "Actual emissions" means for 15A NCAC 02D .1418, emissions of NOx as measured and calculated pursuant to 40 CFR Part 75, Subpart H.
- (3) "Actual heat input" means for 15A NCAC 02D .1418, heat input as measured and calculated pursuant to 40 CFR Part 75, Subpart H.
- (4) "Averaging set of sources" means all the stationary sources included in an emissions averaging plan pursuant to 15A NCAC 02D .1410.
- (5) "Averaging source" means a stationary source that is included in an emissions averaging plan pursuant to 15A NCAC 02D .1410.
- (6) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.
- (7) "Combined cycle system" means a system consisting of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.
- (8) "Combustion turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.
- (9) "Diesel engine" means a compression ignited two- or four-stroke engine in which liquid fuel injected into the combustion chamber ignites when the air charge has been compressed to a temperature sufficiently high for auto-ignition.
- (10) "Dual fuel engine" means a compression ignited stationary internal combustion engine that is burning liquid fuel and gaseous fuel simultaneously.
- (11) "EGU" or electric generating unit means a stationary, fossil fuel-fired boiler or combustion turbine that serves a generator with a nameplate capacity greater than 25 MWe producing electricity for sale at any time, except a large non-EGU.
- (12) "Emergency generator" means a stationary internal combustion engine used to generate electricity only during:
  - (A) the loss of primary power at the facility that is beyond the control of the owner or operator of the facility; or
  - (B) maintenance when maintenance is being performed on the power supply to equipment that is essential in protecting the environment or to such equipment itself.

- An emergency generator may be operated periodically to ensure that it will operate.
- (13) "Emergency use internal combustion engines" means stationary internal combustion engines used to drive pumps, aerators, and other equipment only during:
- (A) the loss of primary power at the facility that is beyond the control of the owner or operator of the facility; or
  - (B) maintenance when maintenance is being performed on the power supply to equipment that is essential in protecting the environment or to such equipment itself.
- An emergency use internal combustion engine may be operated periodically to ensure that it will operate.
- (14) "Excess emissions" means an emission rate that exceeds the applicable limitation or standard; for the purposes of this definition, NO<sub>x</sub> emitted by a source regulated by 15A NCAC 02D .1418 during the ozone season above its allocation are not considered excess emissions.
- (15) "Fossil fuel fired" means:
- (A) For sources that began operation before January 1, 1996, where fossil fuel combusted either alone or in combination with any other fuel, comprises more than 50 percent of the annual heat input on a Btu basis during 1995, or, if a source had no heat input in 1995, during the last year of operation of the unit before 1995;
  - (B) For sources that began operation on or after January 1, 1996 and before January 1, 1997, where fossil fuel combusted either alone or in combination with any other fuel, comprises more than 50 percent of the annual heat input on a Btu basis during 1996; or
  - (C) For sources that began operation on or after January 1, 1997:
    - (i) Where fossil fuel combusted either alone or in combination with any other fuel, comprises more than 50 percent of the annual heat input on a Btu basis during any year; or
    - (ii) Where fossil fuel combusted either alone or in combination with any other fuel, is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year, provided that the unit shall be "fossil fuel-fired" as of the date, during such year, on which the source begins combusting fossil fuel.
- (16) "Indirect-fired process heater" means an enclosed device using controlled flame where the device's primary purpose is to transfer heat by indirect heat exchange to a process fluid, a process material that is not a fluid, or a heat transfer material, instead of steam, for use in a process.
- (17) "Large non-EGU" or large non-electric generating unit means a stationary fossil fuel fired boiler or combustion turbine with a maximum heat input greater than 250 MMBtu/hr that either:
- (A) does not serve at any time a generator producing electricity for sale; or
  - (B) serves at any time a generator producing electricity for sale and qualifies under 40 CFR 72.6(b)(4), that addresses certain cogeneration facilities, as an unaffected unit for purposes of the Acid Rain Program.
- (18) "Lean-burn internal combustion engine" means a spark ignition internal combustion engine originally designed and manufactured to operate with an exhaust oxygen concentration greater than one percent.
- (19) "NO<sub>x</sub>" means nitrogen oxides.
- (20) "NO<sub>x</sub> SIP Call control period" for the purposes of the NO<sub>x</sub> SIP Call budgets in 15A NCAC 02D .1425 means the period May 1 through the end of September 30.
- (21) "Ozone season" means the period beginning May 1 and ending September 30.
- (22) "Potential emissions" means the quantity of NO<sub>x</sub> that would be emitted at the maximum capacity of a stationary source to emit NO<sub>x</sub> under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit NO<sub>x</sub> shall be treated as a part of its design if the limitation is federally enforceable. Such physical or operational limitations include air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed.
- (23) "Projected seasonal energy input" means the maximum design heat input per hour times 3300 hours.
- (24) "Projected seasonal energy output" means the maximum design energy output per hour times 3300 hours.
- (25) "Reasonable assurance" means a demonstration to the Director that a method, procedure, or technique is possible and practical for a source or facility under the expected operating conditions.



- (26) "Reasonably Available Control Technology" or "RACT" means the lowest emission limitation for NOx that a particular source can meet by the application of control technology that is reasonably available considering technological and economic feasibility.
- (27) "Reasonable effort" means the proper installation of technology designed to meet the requirements of 15A NCAC 02D .1407, .1408, or .1409 and the utilization of this technology according to the manufacturer's recommendations or other similar guidance for not less than six months, in an effort to meet the applicable limitation for a source.
- (28) "Rich-burn internal combustion engine" means a spark ignition internal combustion engine originally designed and manufactured to operate with an exhaust oxygen concentration less than or equal to one percent.
- (29) "Seasonal energy input" means the total energy input of a combustion source during the period beginning May 1 and ending September 30.
- (30) "Seasonal energy output" means the total energy output of a combustion source during the period beginning May 1 and ending September 30.
- (31) "Shutdown" means the cessation of operation of a source or its emission control equipment.
- (32) "Source" means a stationary boiler, combustion turbine, combined cycle system, reciprocating internal combustion engine, indirect-fired process heater, or a stationary article, machine, process equipment, or other contrivance, or combination thereof, from which NOx emanate or are emitted.
- (33) "Startup" means the commencement of operation of any source that has shutdown or ceased operation for a period sufficient to cause temperature, pressure, process, chemical, or pollution control device imbalance that would result in excess emissions.
- (34) "Stationary internal combustion engine" means a reciprocating internal combustion engine that is not self-propelled; however, it may be mounted on a vehicle for portability.

(b) Whenever reference is made to the Code of Federal Regulations in this Section, the definitions in the Code of Federal Regulations shall apply unless specifically stated otherwise in a particular rule in this Section.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(7); 143-215.107(a)(10); Eff. April 1, 1995; Temporary Amendment Eff. August 1, 2001; November 1, 2000; Amended Eff. July 18, 2002; Readopted Eff. October 1, 2020; Amended Eff. May 1, 2022.*

**15A NCAC 02D .1402 APPLICABILITY**

- (a) The rules in this Section do not apply except as specifically set out in this Rule.
- (b) The requirements of this Section apply to all sources May 1 through September 30 of each year.
- (c) Rules 15A NCAC 02D .1409(c), .1418, .1423, .1424, and .1425 apply Statewide.
- (d) Rules 15A NCAC 02D .1407 through .1409(b) and .1413 apply to facilities with potential emissions of NOx greater than or equal to 100 tons per year or 560 pounds per calendar day beginning May 1 through September 30 of any year in the following areas:
  - (1) Cabarrus County;
  - (2) Gaston County;
  - (3) Lincoln County;
  - (4) Mecklenburg County;
  - (5) Rowan County;
  - (6) Union County; and
  - (7) Davidson Township and Coddle Creek Township in Iredell County.
- (e) If a violation of the ambient air quality standard for ozone is measured according to 40 CFR 50.9 in Davidson, Forsyth, or Guilford County or that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River, the Director shall initiate analysis to determine the control measures needed to attain and maintain the ambient air quality standard for ozone. By the following May 1, the Director shall implement the specific stationary source control measures contained in this Section that are required as part of the control strategy necessary to bring the area into compliance and to maintain compliance with the ambient air quality standard for ozone. The Director shall implement the rules in this Section identified as necessary by the analysis by notice in the North Carolina Register. The notice shall identify the rules that are to be implemented and shall identify whether the rules implemented are to apply in Davidson, Forsyth, or Guilford County or that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River or any combination thereof. At least one week before the scheduled publication date of the North Carolina Register containing the Director's notice implementing rules in this Section, the Director shall send written notification to all permitted facilities within the county where the Rules are being implemented that are or may be subject to the requirements of this Section, informing them that they are or may be subject to the requirements of this Section. For the purposes of notifying permitted facilities in Forsyth County, "Director" means the Director of the Forsyth County local air pollution control program. Compliance shall be determined by 15A NCAC 02D .1403.
- (f) If a violation of the ambient air quality standard for ozone is measured according to 40 CFR 50.9 in Durham County, Wake County, or Dutchville Township in Granville County, the Director shall initiate analysis to determine the control measures needed to attain and maintain the ambient air quality standard for ozone. By the following May 1, the Director shall implement the specific stationary source control measures contained in this Section that are required as part of the control strategy necessary to bring the area into compliance and to maintain compliance with the ambient

air quality standard for ozone. The Director shall implement the rules in this Section identified as necessary by the analysis by notice in the North Carolina Register. The notice shall identify the rules that are to be implemented and shall identify whether the rules implemented are to apply in Durham County, Wake County, or Dutchville Township in Granville County or any combination thereof. At least one week before the scheduled publication date of the North Carolina Register containing the Director's notice implementing 15A NCAC 02D .1407 through .1409(b) and 15A NCAC 02D .1413, the Director shall send written notification to all permitted facilities within the county where the Rules are being implemented that are or may be subject to the requirements of this Section, informing them that they are or may be subject to the requirements of this Section. Compliance shall be according to 15A NCAC 02D .1403.

(g) If the State nonattainment plan for ozone has failed to attain the ambient air quality standard for ozone in 40 CFR 50.9 and does not qualify for an extension of the attainment date in the Charlotte-Gastonia-Rock Hill ozone nonattainment area, the rules in this Section shall apply to facilities in Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties and Davidson and Coddle Creek townships in Iredell County with the potential to emit at least 50 tons of NO<sub>x</sub> per year. Once the nonattainment plan for ozone has failed and the area does not qualify for an extension of the attainment date, the Director shall notice the applicability of these Rules to those sources in the North Carolina Register and shall send written notification to all permitted facilities within the counties where the Rules are being implemented that are or may be subject to the requirements of this Section, informing them that they are or may be subject to the requirements of this Section. For the purposes of notifying permitted facilities in Mecklenburg County, "Director" means the Director of the Mecklenburg County local air pollution control program. Compliance shall be according to 15A NCAC 02D .1403.

(h) Regardless of any other statement of applicability of this Section, this Section does not apply to any:

- (1) source not required to obtain an air permit pursuant to 15A NCAC 02Q .0102 or is an insignificant activity as defined in 15A NCAC 02Q .0103;
- (2) incinerator or thermal or catalytic oxidizer used primarily for the control of air pollution;
- (3) emergency generator;
- (4) emergency use internal combustion engine; or
- (5) stationary internal combustion engine less than 2400 brake horsepower that operates no more than the following hours between May 1 and September 30:

(A) for diesel engines:

$$t = \frac{833,333}{ES}$$

(B) for natural gas-fired engines:

$$t = \frac{700,280}{ES}$$

where t equals time in hours and ES equals engine size in horsepower.

Eff. April 1, 1995;

Amended Eff. April 1, 1997; July 1, 1995; April 1, 1995;

Temporary Amendment Eff. November 1, 2000;

Amended Eff. April 1, 2001;

Temporary Amendment Eff. August 1, 2001;

Amended Eff. June 1, 2008; July 1, 2007; March 1, 2007; July 18, 2002;

Temporary Amendment Eff. December 31, 2008;

Temporary Amendment expired September 29, 2009;

Amended Eff. January 1, 2010;

Readopted Eff. October 1, 2020;

Amended Eff. May 1, 2022.

## 15A NCAC 02D .1424 LARGE NON-ELECTRIC GENERATING UNITS

(a) General requirements. The owner or operator of a large non-EGU shall comply with the monitoring, recordkeeping and reporting requirements in 15A NCAC 02D .0600, with the exception of .0604 and .0612. For a period of five years, the owner or operator shall maintain all records necessary for determining compliance with all applicable limitations and standards of this Section.

(b) The owner or operator of a large non-EGU covered by this Rule may request alternative monitoring procedures if the source is not required by 15A NCAC 02D .1418 or any other federal regulation to comply with 40 CFR Part 75.

(c) For a source subject to 40 CFR Part 60 Subpart D or Subpart Db, the source shall determine NO<sub>x</sub> mass emissions using the NO<sub>x</sub> emission rate, total heat input derived, and time interval from each type of fuel during the NO<sub>x</sub> SIP Call control period.

(d) For a large non-EGU requesting an alternative monitoring procedure, one of the following monitoring options shall be used to determine NO<sub>x</sub> emissions.

- (1) For sources with at least five years of historical CEMS operational data, the NO<sub>x</sub> mass emissions shall be determined using the following formula:

$$M = K * C * Q * t / 2000$$

where;

M is the NO<sub>x</sub> mass emissions in tons;

K is the conversion constant equal to 1.194E-7 pounds per standard cubic feet-parts per million volume (lb/scf-ppmv);

C is the average NO<sub>x</sub> concentration of the unit as demonstrated by previous 40 CFR Part 75 monitoring in parts per million volume (ppmv);

Q is the average flow rate of the unit under normal operating conditions as demonstrated by previous 40 CFR Part 75 monitoring in standard cubic feet per hour (scf/hr);

t is the total operating time in hours during the ozone season; and

2000 pounds per ton (2000 lb/ton).

- (2) For sources with at least five years of historical CEMS emissions data, the NO<sub>x</sub> mass emissions shall be determined as follows:

$$M = R * HI * t / 2000$$

where;

M is the NO<sub>x</sub> mass emissions in tons,

History Note: Authority G.S. 143-215.3(a)(1); 143.215.107(a)(5); 143.215.107(a)(7); 143.215.107(a)(10);

R is the average NO<sub>x</sub> mass emission rate in pounds per million Btu (lb/MMBtu),  
 HI is the average heat input rate per hour in million British thermal units per hour (MMBtu/hr),  
 t is the operating time in hours during ozone season, and

2000 pounds per ton (2000 lb/ton).

- (3) For sources without historical CEMS operational data or the CEMS data do not represent current operating conditions, the large non-EGU source shall test utilizing 40 CFR Part 60, Appendix A, Methods 1-4 and 7 or 7e to determine initial NO<sub>x</sub> concentration and flow rate factors prior to the ozone season.

(A) The NO<sub>x</sub> concentration and flow rate factors determined from the testing and the number of hours operated during the ozone season will be used to determine NO<sub>x</sub> emissions for that ozone season.

(B) After a total of three years of testing, the source shall use the average NO<sub>x</sub> concentration and flow rate factors for subsequent ozone season NO<sub>x</sub> emissions reporting.

(C) Sources shall use the equation in Subparagraph (1) of this Paragraph to calculate their NO<sub>x</sub> mass emissions in tons.

(e) A stack test shall be performed periodically in accordance with 40 CFR 51.121(i)(2) to verify NO<sub>x</sub> concentration and flow factors for use in computing NO<sub>x</sub> mass emissions.

(f) If the approved alternative monitoring or reporting requirements differ from those specified in a corresponding rule in Subchapters 02D or 02Q of this Chapter, the permit shall contain conditions stating the monitoring or reporting requirements.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143.215.107(a)(5); 143.215.107(a)(7); 143.215.107(a)(10); Eff. May 1, 2022.*

#### **15A NCAC 02D .1425 NO<sub>x</sub> SIP CALL BUDGET**

(a) This Rule establishes general provisions and reporting requirements for the NO<sub>x</sub> SIP Call control period budgets pursuant to 40 CFR 51.121 through 51.122.

(b) The owner or operator of an EGU or large non-EGU as defined in 15A NCAC 02D .1401 shall submit a report to the Division no later than January 30 of the calendar year after the NO<sub>x</sub> SIP Call control period listing the NO<sub>x</sub> emissions from these sources during the NO<sub>x</sub> SIP Call control period. The NO<sub>x</sub> emissions in this report shall be determined in accordance with 40 CFR Part 75 for EGUs and large non-EGUs subject to 15A NCAC 02D .1418, and in accordance with 15A NCAC 02D .1424 for large non-EGUs using alternative monitoring.

(c) The information provided by the EGU and large non-EGU sources will be used to evaluate state level NO<sub>x</sub> budgets in

Paragraph (d) of this Rule. The sum of the tons of NO<sub>x</sub> emitted from all such units in each control period beginning after the effective date of this rule shall not exceed this budget amount.

(d) For North Carolina's NO<sub>x</sub> Budget Program, the following budgets shall apply:

- (1) The total NO<sub>x</sub> SIP Call control period budget for EGUs is 31,212 tons; and
- (2) The total NO<sub>x</sub> SIP Call control period budget for large non-EGUs is 2,329 tons.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143.215.107(a)(5); 143.215.107(a)(7); 143.215.107(a)(10); Eff. May 1, 2022.*

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#### **15A NCAC 03I .0109 RESEARCH SANCTUARIES**

(a) The Fisheries Director may, by proclamation, prohibit or restrict the taking of fish and the use of any equipment in and around any research sanctuary. Any closure or restriction shall be for no more than one year, subject to renewal at the discretion of the Fisheries Director.

(b) It shall be unlawful to engage in any fishing activity, use any equipment, or conduct any other operation that has been prohibited by proclamation issued under this authority.

*History Note: Authority G.S. 113-134; 113-181; 113-182; 113-221.1; 143B-289.52; Eff. January 1, 1991; Recodified from 15A NCAC 31.0009 Eff. December 17, 1996; Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0404 OCEAN ARTIFICIAL REEF GEAR RESTRICTIONS**

(a) For the purpose of this Rule:

- (1) "hand line" shall mean fishing gear that is set and pulled by hand and consists of one vertical line to which may be attached leader lines with hooks.
- (2) "hook and line" shall mean one or more hooks attached to one or more lines and shall include rod and reel, a fishing rod designed to be hand-held with a manually or electrically operated reel attached.
- (3) "spearfishing gear" shall mean spears, Hawaiian slings, or similar devices that propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas, or similar means.

(b) It shall be unlawful to use fishing gear in Ocean Artificial Reefs designated in 15A NCAC 03R .0119 except hand line, hook and line, and spearfishing gear, and except as further limited in accordance with Paragraph (d) of this Rule.

(c) It shall be unlawful to possess finfish taken with spearfishing gear in excess of a recreational limit within the boundaries of a designated Ocean Artificial Reef.

- (d) The Fisheries Director may, by proclamation, close the areas designated in 15A NCAC 03R .0119 to the use of specific fishing gear, including the gears otherwise allowed in Paragraph (b) of this Rule, based on biological impacts or user conflicts.
- (e) The Fisheries Director may, by proclamation, designate and modify Ocean Artificial Reefs in Coastal Fishing Waters of the Atlantic Ocean, based on biological impacts or variable spatial distribution, including shifted artificial reef material.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03P .0102 CONTESTED CASE HEARING PROCEDURES**

Contested case hearings shall be held in accordance with Article 3 of Chapter 150B of the General Statutes.

*History Note:* Authority G.S. 113-131; 113-134; 143B-289.52;  
*Eff.* January 1, 1991;  
*Amended Eff.* August 1, 1999;  
*Readopted Eff.* June 1, 2022.

**15A NCAC 03P .0201 DECLARATORY RULINGS: GENERALLY**

At the request of any person aggrieved, as defined in G.S. 150B-2(6), the Marine Fisheries Commission may issue a declaratory ruling as provided in G.S. 150B-4 and rules of this Section.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;  
*Eff.* April 1, 1999;  
*Readopted Eff.* June 1, 2022.

**15A NCAC 03P .0202 PROCEDURE FOR REQUESTING DECLARATORY RULINGS**

- (a) All requests for a declaratory ruling shall be submitted in writing to the Marine Fisheries Commission Chair and addressed to the Marine Fisheries Commission Office, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.
- (b) All requests shall include the following:
- (1) the petitioner's name and address;
  - (2) the rule, statute, or order upon which a ruling is desired;
  - (3) a statement as to whether the request is for a ruling on:
    - (A) the validity of a rule;
    - (B) the applicability of a rule, order, or statute to a given factual situation; or
    - (C) a conflict or inconsistency within the Commission or the Department of Environmental Quality regarding interpretation of a law or rule adopted by the Commission;
  - (4) arguments or data that demonstrate the petitioner is aggrieved by the rule or statute or its potential application to the petitioner;

- (5) a statement of the consequences of a failure to issue a declaratory ruling in favor of the petitioner;
- (6) a draft of the proposed ruling; and
- (7) a statement of whether an oral argument is desired, and, if so, the reasons for requesting such an oral argument.

(c) A request for a ruling on the validity of a Commission rule shall state the petitioner's reasons for questioning the validity of the rule and a brief or legal memorandum supporting the petitioner's position. A request for a ruling on the applicability of a rule, order, or statute shall include a statement of the specific facts to a given factual situation and documentation supporting those facts. A request for a ruling to resolve a conflict or inconsistency within the Commission or the Department regarding interpretation of a law or rule adopted by the Commission shall include a written description identifying the conflict or inconsistency, the interpretation provided by the agency, and the law or rule in question. A person may ask for multiple types of declaratory rulings in a single request.

(d) In the manner provided in G.S. 150B-23(d), any other person may request to intervene in the request for declaratory ruling. The request to intervene shall be determined by the Commission Chair.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;  
*Eff.* April 1, 1999;  
*Readopted Eff.* June 1, 2022.

**15A NCAC 03P .0203 DISPOSITION OF REQUESTS FOR DECLARATORY RULING**

(a) The Marine Fisheries Commission Chair shall make a determination on the completeness of a request for declaratory ruling based on the requirements of this Section.

(b) Before the Commission decides the merits of the request, the Commission Chair may:

- (1) request additional written submissions from the petitioner;
- (2) allow the petitioner to file a reply to the response submitted in accordance with Subparagraph (1) of this Paragraph; and
- (3) request oral arguments from the petitioner or the petitioner's legal counsel.

(c) Unless the Division of Marine Fisheries waives the opportunity to be heard, it shall be a party to any request for declaratory ruling. The Division shall be allowed to present a written response and oral arguments to the Commission at a regularly scheduled meeting.

(d) The Commission shall make a decision to grant or deny the request in accordance with G.S. 150B-4.

(e) The Commission shall deny the request upon making any of the following findings:

- (1) the request is not complete;
- (2) the petitioner is not a person aggrieved;
- (3) there has been a similar determination in a previous contested case or declaratory ruling;

- (4) the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court;
  - (5) no genuine controversy exists as to the application of a statute, order, or rule to the factual situation presented;
  - (6) the factual context put forward as the subject of the declaratory ruling was considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record;
  - (7) the information provided by the petitioner, the Department, or any interveners does not support a determination that a rule is invalid; or
  - (8) there is no material conflict or inconsistency within the Commission or Department regarding the law or rule identified by the petitioner.
- (f) The Commission shall keep a record of each declaratory ruling, which shall include the following items:
- (1) the request for a ruling;
  - (2) any written submission by a party;
  - (3) the statement of facts on which the ruling was based;
  - (4) any transcripts of oral proceedings, or, in the absence of a transcript, a summary of all arguments;
  - (5) any other matter considered by the Commission in making the decision; and
  - (6) the declaratory ruling, or the decision to refuse to issue a declaratory ruling, together with the reasons therefore.
- (g) For purposes of this Section, a declaratory ruling shall be deemed to be in effect until:
- (1) the statute or rule interpreted by the declaratory ruling is repealed or the relevant provisions of the statute or rule are amended or altered;
  - (2) any court of the Appellate Division of the General Court of Justice construes the statute or rule that is the subject of the declaratory ruling in a manner plainly irreconcilable with the declaratory ruling;
  - (3) the Commission changes the declaratory ruling prospectively; or
  - (4) any court sets aside the declaratory ruling in litigation between the Commission or Department of Environmental Quality and the party requesting the ruling.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4; Eff. April 1, 1999; Readopted Eff. June 1, 2022.*

**15A NCAC 03P .0301 FORM AND CONTENTS OF PETITIONS FOR RULEMAKING**

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Marine Fisheries Commission shall submit the person's request in a written petition to the Marine Fisheries Commission Chair addressed to the Marine Fisheries Commission

Office, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

(b) The petition shall specify it is filed pursuant to G.S. 150B-20 and shall contain the following information:

- (1) the text of the proposed rules for adoption or amendment;
- (2) a statement of the reasons for adoption or amendment of the proposed rules, or the repeal of existing rules;
- (3) a statement of the effect of the requested rule changes on:
  - (A) existing rules;
  - (B) existing practices in the area involved; and
  - (C) those most likely to be affected by the requested rule changes; and
- (4) the name and address of the petitioner.

(c) The petitioner may include the following information within the request:

- (1) the statutory authority for the agency to promulgate the rules;
- (2) a statement of the cost factors for persons affected by the proposed rules;
- (3) a statement explaining the computation of the cost factors;
- (4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rules; and
- (5) documents and data supporting the proposed rules.

(d) In its review of the proposed rules, the Commission shall consider:

- (1) whether it has the authority to adopt the rules;
- (2) the effect of the proposed rules on existing rules, programs, and practices;
- (3) probable costs and cost factors of the proposed rules; and
- (4) the impact of the rules on the public and regulated entities.

(e) A petition failing to contain the required information shall be returned by the Marine Fisheries Commission Chair.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 143B-289.51; 143B-289.52; 150B-20; Eff. April 1, 1999; Readopted Eff. June 1, 2022.*

**15A NCAC 03P .0302 REVIEW OF RULEMAKING PETITIONS BY A COMMITTEE OF THE COMMISSION**

(a) The Marine Fisheries Commission Chair may refer complete petitions, as set forth in Rule .0301 of this Section, to the appropriate standing advisory committees or other advisory committees of the Commission for review and recommended action. Copies of petitions for rulemaking shall be distributed to the Commission members when referred to a committee of the Commission.

(b) Within 10 days of the assignment of the complete petition, the Chair of the Committee assigned to review a submitted petition

for rulemaking shall announce the date of a meeting to consider the petition.

(c) At least 15 days before the Committee meeting, the Committee Chair shall send notice of the Committee meeting to the petitioner, members of the Commission, and persons who have requested notice of petitions for rulemaking.

(d) If the petition is referred to a Committee, the petitioner shall be afforded the opportunity to present the petition for rulemaking to the Committee. The Fisheries Director, Division of Marine Fisheries staff, or their legal counsel may make a presentation to the Committee.

(e) The Committee Chair shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Committee Chair may determine whether additional interested persons shall make oral presentations before the Committee.

(f) At least 10 days before the Committee meeting, interested persons shall request the opportunity to make a presentation to the Committees through the Chairs of the Committees. The request shall:

- (1) state the interest of the person;
- (2) state the person's position on the petition for rulemaking; and
- (3) be accompanied by supporting materials.

(g) During the Committee's review, members of the Commission, other than Committee members, who are present may participate as a member of the Committee in discussions of the petition but may not vote on the recommended action on the petition.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; 150B-20; Eff. April 1, 1999; Readopted Eff. June 1, 2022.*

#### **15A NCAC 03P .0303 PRESENTATION OF RULEMAKING PETITIONS TO THE COMMISSION**

(a) A complete petition for rulemaking, as set forth in Rule .0301 of this Section, shall be presented to the Marine Fisheries Commission for its consideration and determination at the next regularly scheduled meeting of the Commission.

(b) If the petition for rulemaking was reviewed by a Committee pursuant to Rule .0302 of this Section, the petition and the Committee's recommended action shall be presented through the Chair of the Committee or other designated member of the Committee during the business session of the Commission. Unless the Commission Chair rules otherwise, discussion on the petition shall be limited to the members of the Commission, legal counsel to the Commission, the Fisheries Director, Division of Marine Fisheries staff, legal counsel to the Department of Environmental Quality, the petitioner, and the petitioner's legal counsel.

(c) For a petition not referred to a Committee, the Commission Chair shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Commission Chair may determine whether additional interested persons shall make oral presentations before the Commission. At least 10 days before the Commission meeting, interested persons shall request the opportunity to make a presentation to the Commission through the Commission Chair. The request shall:

- (1) state the interest of the person;
  - (2) state the person's position on the petition for rulemaking; and
  - (3) be accompanied by supporting materials.
- (d) Within 120 days following submission of the petition requesting rulemaking, the Marine Fisheries Commission shall:
- (1) grant the petition in writing, notify the petitioner in writing, and initiate rulemaking proceedings in accordance with G.S. 150B-20; or
  - (2) deny the petition in writing, stating the reason or reasons for the denial, and send the written denial to the person or persons who submitted the petition.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; 150B-20; Eff. April 1, 1999; Readopted Eff. June 1, 2022.*

#### **15A NCAC 03P .0304 RECOURSE TO DENIAL OF THE PETITION**

*History Note: Authority G.S. 113-134; 113-182; 143B-289.51; 150B-20; Eff. April 1, 1999; Repealed Eff. June 1, 2022.*

#### **15A NCAC 03R .0119 OCEAN ARTIFICIAL REEFS**

The Ocean Artificial Reefs referenced in 15A NCAC 03J .0404 are delineated in the following Coastal Fishing Waters of the Atlantic Ocean:

- (1) AR-160: within the circular area described by a center point at 35° 43.8880' N - 75° 26.7710' W and radius extending 1,500 feet.
- (2) AR-165: within the circular area described by a center point at 35° 41.6720' N - 75° 26.3130' W and radius extending 1,500 feet.
- (3) AR-275: within the circular area described by a center point at 34° 50.0930' N - 76° 16.8800' W and radius extending 1,500 feet.
- (4) AR-315: within the circular area described by a center point at 34° 40.0850' N - 76° 44.8270' W and radius extending 3,000 feet.
- (5) AR-320: within the circular area described by a center point at 34° 39.5330' N - 76° 48.4170' W and radius extending 1,500 feet.
- (6) AR-342: within the circular area described by a center point at 34° 36.6720' N - 77° 2.1890' W and radius extending 1,500 feet.
- (7) AR-360: within the circular area described by a center point at 34° 20.9830' N - 77° 36.1830' W and radius extending 1,500 feet.
- (8) AR-364: within the circular area described by a center point at 34° 14.8060' N - 77° 42.8550' W and radius extending 1,500 feet.
- (9) AR-370: within the circular area described by a center point at 34° 10.4530' N - 77° 45.2810' W and radius extending 3,000 feet.

- (10) AR-378: within the circular area described by a center point at 34° 1.8070' N - 77° 52.0910' W and radius extending 1,500 feet.
- (11) AR-378b: within the circular area described by a center point at 34° 0.6420' N - 77° 50.6540' W and radius extending 1,500 feet.
- (12) AR-425: within the circular area described by a center point at 33° 53.0480' N - 78° 6.5250' W and radius extending 1,500 feet.
- (13) AR-430: within the circular area described by a center point at 33° 52.2560' N - 78° 09.9680' W and radius extending 1,500 feet.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. (Pending legislative review of 15A NCAC 03J .0404).*

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**15A NCAC 10A .1601 LICENSE FEES.**

(a) License fees established by the Commission in this Rule shall be subject to the requirements of G.S. 113-270.1B(e).

(b) The following fees shall apply to combination hunting and inland fishing licenses issued by the Commission, as set forth in G.S. 113-270.1C:

- (1) Resident Annual Combination Hunting and Inland Fishing License - \$35.00.
- (2) Resident Disabled Veteran Lifetime Combination Hunting and Inland Fishing License - \$11.00.
- (3) Resident Totally Disabled Lifetime Combination Hunting and Inland Fishing License - \$11.00.

(c) The following fees shall apply to sportsman licenses issued by the Commission, as set forth in G.S. 113-270.1D:

- (1) Annual Sportsman License - \$53.00.
- (2) Infant Lifetime Sportsman License - \$212.00.
- (3) Youth Lifetime Sportsman License - \$371.00.
- (4) Adult Resident Lifetime Sportsman License - \$530.00.
- (5) Nonresident Lifetime Sportsman License - \$1,272.00.
- (6) Age 70 Resident Lifetime Sportsman License - \$16.00.
- (7) Resident Disabled Veteran Lifetime Sportsman License - \$106.00.
- (8) Resident Totally Disabled Lifetime Sportsman License - \$106.00.

(d) The following fees shall apply to hunting licenses issued by the Commission, as set forth in G.S. 113-270.2:

- (1) Resident State Hunting License - \$25.00.
- (2) Lifetime Resident Comprehensive Hunting License - \$265.00.
- (3) Controlled Hunting Preserve Hunting License - \$22.00.
- (4) Resident Annual Comprehensive Hunting License - \$39.00.
- (5) Nonresident State Hunting Licenses:
  - (A) Season License - \$100.00.

(B) Ten-Day License - \$80.00.

(6) Falconry Hunting License - \$25.00.

(e) The following fees shall apply to special activity licenses issued by the Commission, as set forth in G.S. 113-270.3:

- (1) Resident Big Game Hunting License - \$14.00.
- (2) Nonresident Bear Hunting License - \$239.00.
- (3) Bear Management Stamp - \$11.00.
- (4) Nonresident Big Game Hunting License:
  - (A) Season License - \$100.00.
  - (B) Ten-Day License - \$80.00.
- (5) Bonus Antlerless Deer License - \$11.00.
- (6) Game Land License - \$16.00.
- (7) Falconry License - \$11.00.
- (8) Migratory Waterfowl Hunting License - \$14.00.
- (9) Resident American Alligator License - \$250.00.
- (10) Nonresident American Alligator License - \$500.00.
- (11) Resident Elk License - \$500.00.
- (12) Nonresident Elk License - \$1,000.00.

(f) The following fees shall apply to hunting and fishing guide licenses issued by the Commission, as set forth in G.S. 113-270.4:

- (1) Resident Hunting and Fishing Guide License - \$16.00.
- (2) Nonresident Hunting and Fishing Guide License - \$159.00.

(g) The following fees shall apply to trapping licenses issued by the Commission, as set forth in G.S. 113-270.5:

- (1) Resident State Trapping License - \$32.00.
- (2) Resident Lifetime Trapping License - \$300.00.
- (3) Nonresident State Trapping License - \$133.00.

(h) The following fees shall apply to hook-and-line licenses in inland and joint fishing waters issued by the Commission, as set forth in G.S. 113-271:

- (1) Resident State Inland Fishing License - \$25.00.
- (2) Lifetime Resident Comprehensive Inland Fishing License - \$265.00.
- (3) Nonresident State Inland Fishing License - \$45.00.
- (4) Short-Term Inland Fishing License:
  - (A) Resident 10-day Inland Fishing License - \$9.00.
  - (B) Nonresident 10-day Inland Fishing License - \$23.00.
- (5) Age 70 Resident Lifetime Inland Fishing License - \$16.00.
- (6) Resident Disabled Veteran Lifetime Inland Fishing License - \$11.00.
- (7) Resident Totally Disabled Lifetime Inland Fishing License - \$11.00.
- (8) Special Landholder and Guest Fishing License - \$106.00.
- (9) Mountain Heritage Trout Waters 3-Day Fishing License - \$8.00.

(i) The following shall apply to special device licenses issued by the Commission, as set forth in G.S. 113-272.2:

- (1) Resident Special Device License - \$80.00.
- (2) Nonresident Special Device License - \$530.00.

- (j) The non-refundable fees for a collection license issued by the Commission, as set forth in G.S. 113-272.4 shall be \$10.00.
- (k) The following non-refundable fees shall apply to captivity licenses issued by the Commission, as set forth in G.S. 113-272.5:
- (1) Captivity License for Holding - \$50.00.
  - (2) Captivity License for Rehabilitation - \$10.00.
- (l) The following non-refundable fees shall apply to dealer licenses issued by the Commission as set forth in G.S. 113-273:
- (1) Resident Fur-dealer License - \$64.00.
  - (2) Nonresident Fur-dealer License - \$318.00.
  - (3) Fur-dealer Station License - \$128.00.
  - (4) Controlled Hunting Preserve Operator License - \$100.00.
  - (5) Controlled Hunting Preserve Rabbit Operator License - \$25.00.
  - (6) Game Bird Propagation License - \$10.00.
  - (7) Furbearer Propagation License - \$27.00.
  - (8) Taxidermy License - \$50.00.
  - (9) Taxidermy Cervid Certification - \$5.00.
  - (10) Wildlife Control Agent License - \$50.00.
  - (11) Wildlife Control Technician Certification - \$25.00.
  - (12) Alligator Control Agent Certification - \$25.00.
- (m) The following non-refundable fees shall apply to permits issued by the Commission, as set forth in G.S. 113-274:
- (1) Possession Permit - \$10.00.
  - (2) Exportation or Importation Permit - \$10.00.
  - (3) Trophy Wildlife Sale Permit - \$10.00.
  - (4) Endangered Species Permit - \$10.00.
  - (5) Field Trial Permit - \$10.00.
- (n) Unified hunting and fishing licenses issued by the Commission, as set forth in G.S. 113-351:
- (1) Annual Resident Unified Sportsman/Coastal Recreational Fishing License - \$69.00.
  - (2) Annual Resident Unified Inland/Coastal Recreational Fishing License - \$41.00.
  - (3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses:
    - (A) Infant Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$292.00.
    - (B) Youth Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$477.00.
    - (C) Resident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$716.00.
    - (D) Nonresident Adult Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$1,643.00.
    - (E) Resident Age 70 Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$32.00.
    - (F) Resident Disabled Veteran Lifetime Unified Sportsman/Coastal Recreational Fishing License - \$117.00.
    - (G) Resident Totally Disabled Lifetime Unified Sportsman/Coastal

Recreational Fishing License - \$117.00.

- (4) Resident Lifetime Unified Inland/Coastal Recreational Fishing License - \$477.00.

(o) The following fees shall apply to Coastal Recreational Fishing Licenses issued by the Commission, as set forth in G.S. 113-174.2:

- (1) Annual Resident Coastal Recreational Fishing License - \$16.00.
- (2) Annual Nonresident Coastal Recreational Fishing License - \$32.00.
- (3) Ten-Day Resident Coastal Recreational Fishing License - \$6.00.
- (4) Ten-Day Nonresident Coastal Recreational Fishing License - \$11.00.
- (5) Infant Lifetime Coastal Recreational Fishing License - \$106.00.
- (6) Youth Lifetime Coastal Recreational Fishing License - \$159.00.
- (7) Resident Adult Lifetime Coastal Recreational Fishing License - \$265.00.
- (8) Nonresident Adult Lifetime Coastal Recreational Fishing License - \$530.00.
- (9) Resident Age 70 Lifetime Coastal Recreational Fishing License - \$16.00.
- (10) Resident Disabled Veteran Coastal Recreational Fishing License - \$11.00.
- (11) Resident Totally Disabled Coastal Recreational Fishing License - \$11.00.

*History Note: Authority G.S. 113-270.1B(e); Temporary Adoption Eff. January 1, 2020; Eff. July 1, 2020; Amended Eff. May 1, 2022.*

#### **15A NCAC 10B .0101 IMPORTATION OF WILD ANIMALS, BIRDS, AND NATIVE REPTILES AND AMPHIBIANS**

- (a) Before any live wild bird, wild animal, or any native reptile or amphibian is imported into North Carolina for any purpose, a permit shall be obtained from the Executive Director of the North Carolina Wildlife Resources Commission authorizing the importation, using application forms provided by the Commission.
- (b) Waterfowl imported into North Carolina must be received from facilities or individuals who are certified under the National Poultry Improvement Plan (NPPI) as pullorum-typhoid and avian influenza negative. If the source birds are not part of NPPI, they must be tested pullorum-typhoid and avian influenza negative by NPPI standards within 30 days prior to entry into North Carolina. Health certificates for imported waterfowl shall be available for inspection by authorized Commission personnel upon request.

*History Note: Authority G.S. 106.549.97; 113-134; 113-272.6; 113-274; 113-291.3; Eff. February 1, 1976; Temporary Amendment Eff. October 8, 2002; May 17, 2002; Amended Eff. August 1, 2010; May 1, 2010; June 1, 2005; August 1, 2004;*



*Readopted Eff. August 1, 2022.*

**15A NCAC 10B .0105 MIGRATORY GAME BIRDS**

**(a) Cooperative State Rules:**

- (1) The waters of the Atlantic Ocean, and those coastal waters south of US 64 that are separated by a distance of at least 800 yards of open water from any shore, island or marsh are designated as a special hunting area for the taking of sea ducks (scoter, eider, and long-tailed duck).
- (2) Tundra swans may be taken during the open season by permit only subject to annual limitations imposed by the U.S. Fish and Wildlife Service. Based upon the annual limitations imposed by the U.S. Fish and Wildlife Service, the Wildlife Resources Commission shall issue nontransferable swan permits to applicants who will be selected at random by computer. Only one swan shall be taken under each permit which shall be cancelled at the time of the kill by cutting out the month and day of the kill. Accompanying the permit is a tag which must be affixed to the swan at the time and place of the kill. The tag must be affixed in accordance with instructions provided with the permit. In addition, a preaddressed post-paid card is supplied to each permittee on which to report the number of days hunted and the details of the kill if made. Hunting swans without having the permit and the tag in possession or to possess a swan without the cancelled permit in possession and the tag affixed in accordance with instructions provided with the permit to the swan is prohibited. Possessing a swan permit or tag while hunting that was assigned to another person or to alter the permit or tag in any way other than cutting out the proper month and day of kill is prohibited.

(b) Notwithstanding the provisions of G.S. 113-291.1(a) and (b), the following restrictions apply to the taking of migratory game birds:

- (1) No migratory game bird may be taken:
  - (A) With a rifle;
  - (B) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, to limit its total capacity to not more than three shells.
  - (C) From or by the use of a sinkbox or any other type of low floating device affording the hunter a means of concealment beneath the surface of the water;
  - (D) With the aid of bait, or on, over, or within 300 yards of any place where any grain, salt or other feed is exposed

so as to constitute an attraction to migratory game birds or has been so exposed during any of the 10 consecutive days preceding the taking, except that this Part shall not apply to standing crops, flooded croplands, grain crops shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting;

(E) With the aid of live decoys, or on, over or within 300 yards of any place where tame or captive migratory game birds are present, unless such birds are and have been for a period of 10 consecutive days prior to such taking confined within an enclosure which eliminates the audibility of their calls and totally conceals them from the sight of wild migratory game birds.

(2) Crippled waterfowl may be taken from a motorboat under power in those areas described, delineated, and designated as special sea duck hunting areas in Subparagraph (a)(1) of this Rule.

(3) In that area of Roanoke Sound adjacent to and immediately Northeast of Roanoke Island as marked by buoys designating the waterfowl rest area, it is unlawful to harass or take any waterfowl.

(4) The area east of US 17 is designated as the September teal season zone.

(c) For tundra swan and Canada goose seasons where a permit is required to hunt by Memorandum of Agreement with the U.S. Fish & Wildlife Service, hunter questionnaires shall be completed online at [www.ncwildlife.org](http://www.ncwildlife.org), or on the Commission-supplied, preaddressed, postage-paid cards. Questionnaires shall be completed by or postmarked no later than April 1 following the end of the applicable season.

(d) Failure to return the questionnaire and any required animal parts, by this date shall make the individual ineligible to receive a permit as referenced in Paragraph (c) for the following applicable season.

*History Note: Authority G.S. 113-134; 113-274; 113-291.1; 113-291.2; 50 C.F.R. 20.21; 50 C.F.R. 20.105; Eff. February 1, 1976; Amended Eff. July 1, 1995; April 1, 1992; February 1, 1990; September 1, 1989; Temporary Amendment Eff. September 10, 1998; Amended Eff. August 1, 2015; May 1, 2007; June 1, 2005; May 1, 2004; July 1, 2000; Readopted Eff. August 1, 2022.*

**15A NCAC 10B .0111 RESTRICTIONS ON RACCOON AND OPOSSUM HUNTING**

*History Note: Authority G.S. 113-134; 113-291.1; Eff. February 1, 1976;*

*Amended Eff. August 1, 1981; August 1, 1979; August 1, 1978; August 1, 1977;*  
*Repealed Eff. August 1, 2022.*

**15A NCAC 10B .0119 WILDLIFE COLLECTORS**

(a) Wildlife Collection Licenses may be issued to qualified individuals to take any species of wildlife resources for the following purposes:

- (1) scientific collection;
- (2) educational collection; or
- (3) snapping turtle collection.

(b) The following definitions shall apply to this Rule:

- (1) "Scientific Collection" shall mean collection for the purpose of conducting scientific research or survey.
- (2) "Educational Collection" means collection for the purpose of providing instruction, training, or information to the public.
- (3) "Snapping Turtle Collection" means collection of snapping turtles from the family Chelydridae for sale pursuant to 15A NCAC 10H .1301.
- (4) "Personal Use" means collection and holding, using as bait, or personal consumption of reptiles or amphibians.

(c) The Commission shall consider the following qualifications when issuing a license:

- (1) prior research or educational experience in the same or similar field;
- (2) work with or for an educational institution;
- (3) type of study requested of license (permanent or catch and release);
- (4) current state and quantity of species requested;
- (5) collection methodology proposed; and
- (6) disposition of collection.

(d) Individuals collecting and holding reptiles or amphibians for personal use shall not be required to obtain a Wildlife Collection License so long as the following conditions are met:

- (1) no more than 4 individuals of native reptile species or 24 individuals of any combination of amphibian species per person;
- (2) collected reptiles and amphibians shall not be bought or sold; and
- (3) no endangered, threatened, or special concern species shall be collected and retained.

(e) Endangered, threatened, and special concern species may not be taken or collected except under an endangered species permit unless there is an open season for the species. If an open season exists for the species, then the appropriate hunting, fishing, or trapping license serves as the authorization for take.

(f) Wildlife Collection licenses may be issued to any individual, so long as the take is not deemed harmful to the efficient conservation of the species to be collected or to other wildlife species that may be dependent thereon.

(g) Individuals interested in obtaining a Wildlife Collection License shall apply by sending an application to 1701 Varsity Drive, Raleigh, NC 27606 or by completing and submitting an application online at [www.ncwildlife.org](http://www.ncwildlife.org). The application shall include:

- (1) name, address, date of birth, email, and driver's license number; and
- (2) species information.
- (3) Additional information required for scientific and educational collection shall include:
  - (A) organizational affiliation, if any; and
  - (B) full documentation of research or educational proposal(s) and Institutional Animal Care and Use Committee approval, if applicable.

(h) Wildlife Collection Licenses shall be used in lieu of any other hunting or trapping license required by law and shall authorize possession and transportation of the wildlife incidental to the authorized taking. It shall not authorize the taking, possession, or transportation of any species of wildlife in violation of the Endangered Species Act, the Migratory Bird Treaty Act, The Bald and Golden Eagle Protection Act, or any other federal act to prohibit or restrict the possession and transportation of wildlife resources.

(i) Wildlife Collection Licenses for snapping turtle collection shall only be available to North Carolina residents. The following conditions shall apply:

- (1) no more than 10 snapping turtles per person per day;
- (2) no more than 100 snapping turtles per person per calendar year;
- (3) turtles shall have a minimum curved carapace length of 13 inches; and
- (4) no more than 15 trapping devices per license. Devices shall be:
  - (A) labeled with a waterproof tag that shows the licensee's name, WRC Customer Number, or Wildlife Collection License number;
  - (B) hoop traps or other trap style that allows for the unharmed release of any nontarget species or snapping turtles less than 13 inches; and
  - (C) checked daily per 15A NCAC 10B .0110.

(j) Unless a more limited duration is designated on the license, Wildlife Collection Licenses shall be valid from January 1 through December 31 of the applicable year.

(k) Licensed individuals shall submit the following information to the Wildlife Resources Commission within 15 days of license expiration depending on the species taken:

- (1) the numbers of each species taken under the license and the use or disposition thereof;
- (2) dates and location of the taking; and
- (3) sex, size, weight, condition, or approximate age of each specimen taken as specified on the license.

(l) Wildlife Collections License shall not be transferable either by license holder or by site of a facility.

*History Note: Authority G.S. 113-134; 113-272.4; Eff. January 1, 1981;*

*Amended Eff. August 1, 2017; January 1, 2013; May 1, 2009; May 1, 2008; April 1, 2001; February 1, 1994; November 1, 1990; September 1, 1989;*  
*Readopted Eff. August 1, 2022.*

**15A NCAC 10B .0123 LIMITATIONS ON CERTAIN EXOTIC SPECIES**

(a) Except as provided in this Rule, it shall be unlawful to import, transport, export, purchase, possess, sell, transfer, or release into public or private waters or lands of the State, any live specimen of:

- (1) Tongueless or African Clawed Frog (*Xenopus* spp.);
- (2) Brown Anole (*Anolis sagrei*);
- (3) Cuban Treefrog (*Osteopilus septentrionalis*);
- (4) Asian Newts (genera *Cynops*, *Pachytriton*, *Paramesotriton*, *Laotriton*, *Tylotriton*);
- (5) Red-eared Slider (*Trachemys scripta elegans*);
- (6) Argentine Black and White Tegu (*Salvator merianae* or *Tupinambis merianae*); or
- (7) Greenhouse Frog (*Eleutherodactylus planirostris*).

(b) The North Carolina Wildlife Resources Commission may by permit authorize importation, transportation, exportation, purchase, possession, sale, or transfer of any species in this Rule by the following entities, subject to the specified limitations:

- (1) Retail and Wholesale Establishments. Importation, possession, sale, transfer, transportation, and exportation of these species within North Carolina, by retail and wholesale establishments whose primary business is providing scientific supplies for research, shall be allowed by permit, provided the following conditions are met:
  - (A) the application for a permit shall be in writing and include plans for holding, transportation, advertisement, and sale to allow a determination of the safeguards employed to prevent accidental escape and sales to unauthorized individuals;
  - (B) in-State sale or transfer is allowed only to agencies, entities, and institutions listed in Subparagraph (2) of this Paragraph;
  - (C) exportation shall comply with all applicable rules and regulations of the importing state;
  - (D) all specimens shall be possessed in indoor facilities; and
  - (E) transportation of specimens shall employ safeguards that prevent accidental escape.
- (2) Government Agencies and Research Institutions. Purchase, importation, possession, transfer, transportation, and exportation of these species within North Carolina shall be allowed by permitted State and federal governmental agencies, corporate research

entities, and research institutions, provided the following conditions are met:

- (A) the application for a permit shall be in writing and include plans for holding, transportation, final disposition, and safeguards to prevent accidental escape;
- (B) exportation shall comply with all applicable rules and regulations of the importing state;
- (C) all specimens shall be possessed in indoor facilities;
- (D) transportation of specimens shall employ safeguards that prevent accidental escape; and
- (E) the agency's, entity's, or institution's Animal Use and Care Committee has approved the research protocol for these species.

(c) Notwithstanding Paragraph (a) of this Rule, it shall be lawful for private individuals in possession of a live specimen of Red-eared Slider (*Trachemys scripta elegans*) prior to August 1, 2018, to retain, transport, transfer, or export the animal in their possession. Notwithstanding Paragraph (a) of this Rule, it shall be lawful for private individuals in possession of a live specimen Argentine Black and White Tegu (*Salvator merianae* and *Tupinambis merianae*) prior to August 1, 2022, to retain, transport, transfer, or export the animal in their possession.

(d) Notwithstanding Paragraph (a) of this Rule, facilities open to the public for education may apply for a permit to collect, receive, and possess any of the species listed in Paragraph (a) of this Rule.

*History Note: Authority G.S. 113-134; 113-274; 113-292; Eff. February 1, 1994;*  
*Amended Eff. August 1, 2018; April 1, 1997;*  
*Readopted Eff. August 1, 2022.*

**15A NCAC 10B .0203 DEER (WHITE-TAILED)**

(a) Open Seasons (All Lawful Weapons) for hunting deer:

- (1) Deer With Visible Antlers. Deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken on all game lands except Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands (Refer to 15A NCAC 10D .0100 and .0200 for Deer With Visible Antlers seasons on these Game Lands), during the following seasons:
  - (A) Saturday on or nearest October 15 through January 1 in all of Beaufort, Bladen, Brunswick, Carteret, Columbus\*, Cumberland, Craven, Dare, Duplin, Harnett, Hoke, Hyde, Jones, Lenoir, Moore, New Hanover, Onslow, Pamlico, Pender, Richmond, Robeson, Sampson, Scotland, Tyrrell, and Washington counties.

- \*Unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline.
- (B) Saturday on or nearest October 15 through January 1 in all of Bertie, Camden, Chowan, Currituck, Edgecombe, Franklin, Gates, Greene, Halifax, Hertford, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Vance, Wake, Warren, Wayne, and Wilson counties.
  - (C) Saturday before Thanksgiving Day through January 1 in all of Alexander, Alleghany, Ashe, Catawba, Cleveland, Davie, Forsyth, Gaston, Iredell, Lincoln, Polk, Rutherford, Stokes, Surry, Watauga, Wilkes, and Yadkin counties.
  - (D) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, and Yancey counties.
  - (E) Two Saturdays before Thanksgiving Day through January 1 in all of Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties.
  - (F) Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates, and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge; in those parts of Hyde, Tyrrell, and Washington counties known as the Pocosin Lakes National Wildlife Refuge; in that part of Hyde county known as Lake Mattamuskeet National Wildlife Refuge; in those parts of Dare and Hyde counties known as Alligator River National Wildlife Refuge; in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge; and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.
- (2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in Parts (A), (B), (C), (D), (E), (F), and (G) of this Subparagraph (Refer to 15A NCAC 10D .0100 and .0200 for either-sex deer seasons on Game Lands). Deer of either sex may be taken during the open season identified in Part (H) of this Subparagraph.
- (A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates, and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge; in those parts of Hyde, Tyrrell, and Washington counties known as the Pocosin Lakes National Wildlife Refuge; in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge; and in those parts of Currituck County known as the Currituck National Wildlife Refuge and the Mackay Island National Wildlife Refuge.
  - (B) The open either-sex deer hunting dates established by the appropriate military commands at each of the military installations listed in this Paragraph, during the period from Saturday on or nearest October 15 through January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.
  - (C) Youth either-sex deer hunts. First Saturday in October for youth either-sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission; the third Saturday in October for youth either-sex deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston counties; and the second Saturday in November for youth either-sex deer hunting by permit only on apportion of Warrior Creek located on W. Kerr Scott Reservoir, Wilkes County designated by agents of the Commission. A youth is defined as a person under 18 years of age.
  - (D) The first open Saturday of the Deer with Visible Antlers season described in Subparagraph (a)(1) of this Rule in

all of Buncombe\*, Haywood, Henderson, Madison, and Transylvania counties.

\*Except for that part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280

- (E) The first open day of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule through the first Saturday thereafter in all of Avery, Burke, Caldwell, McDowell, Mitchell, and Yancey counties.
- (F) The first open day of the Deer with Visible Antlers season described in Subparagraph (a)(1) of this Rule through the second Friday thereafter in all of Cleveland, Polk, and Rutherford counties.
- (G) All the open days of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule in and east of Ashe, Watauga, Wilkes, Alexander, Catawba, Lincoln, and Gaston counties and in the following parts of counties: Buncombe: That part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280; and Henderson: That part east of NC 191 and north and west of NC 280.
- (H) The fourth Saturday in September in all counties, subject to the following restriction: only persons under the age of 18 years may hunt.

(b) Open Seasons (Archery) for hunting deer:

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer may be taken with archery equipment during the following seasons:
  - (A) Saturday on or nearest September 10 through the day immediately preceding the first open day of the Blackpowder Firearms and Archery Seasons described in Subparagraph (c)(1) of this Rule; and the Sunday immediately following the closing of blackpowder firearms and archery season identified in Part (c)(1)(B) of this Rule to the Sunday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule except on Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands (Refer

to 15A NCAC 10D .0100 and .0200 for Archery seasons on these Game Lands).

- (B) Sunday immediately following the closing of the open season for Deer With Visible Antlers through January 1 in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule.

(2) Restrictions

- (A) In the areas of the State where the Commission is authorized to regulate the use of dogs as provided in G.S. 113-291.5, dogs may not be used for hunting deer during the archery season, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).
- (B) Only archery equipment of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the archery deer hunting season.
- (C) Deer of either sex may be taken during archery seasons specified by Part (b)(1)(A) of this Rule.
- (D) Only deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, shall be taken during the archery season specified by Part (b)(1)(B) of this Rule.

(c) Open Seasons (Blackpowder Firearms and Archery) for hunting deer:

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with blackpowder firearms and archery equipment during the following seasons:
  - (A) Two Saturdays preceding the first day of the Deer with Visible Antlers seasons described in Parts (a)(1)(A), (B), (C), (E), and (F) of this Rule through the second Friday thereafter except on Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands (Refer to 15A NCAC 10D .0100 and .0200 for Blackpowder Firearms and Archery seasons on these Game Lands):
  - (B) Monday on or nearest October 1 through the second Saturday thereafter in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule.

- (2) Restrictions
- (A) Deer of either sex may be taken during blackpowder firearms and archery season in any county or county part set forth in Part (a)(2)(E), (F), or (G) of this Rule that has either-sex days for all lawful weapons.
- (B) Deer of either sex may be taken during the first open day of the blackpowder firearms and archery season thru the first Saturday thereafter in any county or county part set forth in Part (a)(2)(D) of this Rule
- (C) Deer of either sex may be taken on the first open Saturday of the blackpowder firearms and archery season in any county or county part not set forth in Subparagraph (a)(2) of this Rule.
- (D) In the areas of the State where the Commission is authorized to regulate the use of dogs as provided in G.S. 113-291.5, dogs shall not be used for hunting deer during the blackpowder firearms and archery seasons, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).
- (3) As used in this Rule, "blackpowder firearms" means Any firearm - including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system - manufactured in or before 1898, that cannot use fixed ammunition; any replica of this type of firearm if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; and any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading or cylinder-loading handgun that is designed to use blackpowder, blackpowder substitute, or any other propellant loaded through the muzzle, cylinder, or breech and that cannot use fixed ammunition.

(d) Open Season (Urban Season) for hunting deer:

- (1) Authorization. Subject to the restrictions set out in Subparagraph (3) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer of either sex may be taken with bow and arrow in participating cities in the State, as defined in G.S. 160A-1(2), from the second Saturday following January 1 through the sixth Sunday thereafter. Deer shall not be taken on any game land or part thereof that occurs within a city boundary.
- (2) Participation. Cities that intend to participate in the urban season shall send a letter to that effect no later than April 1 of the year prior to the start of the urban season to the Executive Director or his designee at 1722 Mail Service Center, Raleigh, N.C. 27699-1700. Cities shall also

submit a map of the city's boundaries within which the urban season shall apply.

(3) Restrictions:

- (A) In the areas of the State where the Commission is authorized to regulate the use of dogs as provided in G.S. 113-291.5, dogs shall not be used for hunting deer during the urban season, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).
- (B) Only archery equipment of the types authorized in 15A NCAC 10B .0116 for taking deer shall be used during the urban season.

(e) Bag limits. The possession and season limit is six deer, two of which may be deer with visible antlers and four of which may be antlerless deer. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. In addition to the bag limits described above, a hunter may obtain multiple bonus antlerless deer harvest report cards from the Wildlife Resources Commission or any Wildlife Service Agent to allow the harvest of two additional antlerless deer per card for deer harvested during the season described in Paragraph (d) of this Rule within the boundaries of participating municipalities, except on State-owned game lands. Antlerless deer harvested and reported on the bonus antlerless harvest report card shall not count as part of the possession and season limit. The bag limits described above do not apply to deer harvested in areas covered in the Deer Management Assistance Program (DMAP) as described in G.S. 113-291.2(e) for those individuals using Commission-issued DMAP tags and reporting harvest as described on the DMAP license. Season bag limits shall be set by the number of DMAP tags issued and in the hunters' possession. All deer harvested under this program, regardless of the date of harvest, shall be tagged with these DMAP tags and reported as instructed on the DMAP license. The hunter does not have to validate the Big Game Harvest Report Card provided with the hunting license for deer tagged with the DMAP tags. Any deer harvested on lands enrolled in the DMAP and not tagged with DMAP tags may only be harvested during the regularly established deer seasons subject to all the restrictions of those seasons, including bag limits, and reported using the big game harvest report card or the bonus antlerless harvest report card.

*History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2; 113-291.5;*

*Eff. February 1, 1976;*

*Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996, July 1, 1995; December 1, 1994; July 1, 1994; July 1, 1993;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. July 1, 2000;*

*Temporary Amendment Eff. July 1, 2002; July 1, 2001;*

*Amended Eff. August 1, 2002 (Approved by RRC on 06/21/01 and 04/18/02);*

*Temporary Amendment Eff. June 1, 2003;*

*Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);*

*Amended Eff. August 1, 2021; August 1, 2020; August 1, 2018; August 1, 2017; August 1, 2016; August 1, 2015; August 1, 2014; August 1, 2013; August 1, 2012; August 1, 2011; July 10, 2010; June 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.*  
*Readopted Eff. August 1, 2022.*

**15A NCAC 10B .0205 RACCOON AND OPOSSUM**

(a) The open season for taking raccoon and opossum is from sunrise Monday on or nearest October 15 through the last day of February.

(b) Bag Limits:

- (1) The daily bag limit for raccoon is three and there are no season and no possession limits.
- (2) There is no restriction on bag limits for opossum.

(c) Axes or saws shall not be carried when raccoon or opossum hunting.

*History Note: Authority G.S. 113-134; 113-291.2;*

*Eff. February 1, 1976;*

*Amended Eff. July 1, 1995; July 1, 1987; July 1, 1986; July 1, 1985;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. May 1, 2008; May 1, 2007; July 1, 2000;*

*Readopted Eff. August 1, 2022.*

**15A NCAC 10B .0206 SQUIRRELS**

(a) The open season for gray and red squirrels is the Monday on or closest to October 15 through the last day of February.

(b) The open season for fox squirrels is the Monday on or nearest October 15 through January 31.

(c) Except on game lands, gray squirrels may also be taken by hunting on the second Monday in May through the fourth Monday in May.

(d) The daily bag limit for gray and red squirrels is eight in aggregate and there are no season or possession limits.

(e) The daily bag limit for fox squirrels is one; the possession limit is two; and the season limit is 10.

*History Note: Authority G.S. 113-134; 113-291.2;*

*Eff. February 1, 1976;*

*Amended Eff. August 1, 2022; August 1, 2013; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2006; July 1, 1995; July 1, 1987; July 1, 1986; July 1, 1985;*

*Readopted Eff. August 1, 2019;*

*Amended Eff. August 1, 2022.*

**15A NCAC 10B .0402 TAGGING FURS**

(a) Except as provided in Rule .0404 and .0405 of this Section, buying, selling, bartering, trading, or otherwise transferring possession or ownership of the carcass or pelt of any bobcat, otter, or fox without having affixed to such carcass or pelt an individual tag provided by the North Carolina Wildlife Resources Commission is prohibited.

(b) Importing into this State the carcass or pelt of any otter or bobcat that has not been previously affixed with a tag required and supplied by the state where the animal was taken shall be prohibited.

(c) Foxes shall be tagged in accordance with G.S. 113-291.4.

(d) The carcasses or pelts of foxes lawfully taken and lawfully tagged may be sold, except those taken under a depredation permit in any county where the sale of foxes or parts thereof is prohibited by local law.

*History Note: Authority G.S. 113-134; 113-273; 113-276.1; 50 C.F.R. 23;*

*Eff. November 14, 1978;*

*Amended Eff. August 1, 2010; August 1, 2004; January 1, 1992; October 11, 1980; October 1, 1980;*

*Readopted Eff. August 1, 2022.*

**15A NCAC 10B .0403 APPLICATION FOR TAGS**

(a) Fur tags shall be issued free of charge, excluding postage if applicable, by applying in person at 1751 Varsity Dr., Raleigh, NC 27606, over the phone, or by completing and submitting a request form to the Commission online at [www.ncwildlife.org](http://www.ncwildlife.org).

(b) Fur tag requests shall include the following applicant information:

- (1) name;
- (2) date of birth;
- (3) physical address;
- (4) type and quantity of tags requested; and
- (5) telephone number, email address, and WRC Customer number, as applicable.

(c) The following restrictions shall apply to fur tags:

- (1) no more than 50 bobcat tags shall be issued per request;
- (2) no more than 150 otter tags shall be issued per request; and
- (3) fox tags may be limited in accordance with area, bag, possession, or season limits.

*History Note: Authority G.S. 113-134; 113-273; 113-276.1; 113-291.4;*

*Eff. November 14, 1978;*

*Amended Eff. April 1, 2003; January 1, 1992; August 1, 1988; July 1, 1988; July 1, 1984;*

*Readopted Eff. August 1, 2022.*

**15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS**

(a) For purposes of this Rule, the following definitions apply:

- (1) "Natural bait" means any living or dead organism (plant or animal), or parts thereof, or prepared substances designed to attract fish by the sense of taste or smell.
- (2) "Single hook" means a fish hook with only one point.
- (3) "Artificial lure" means a fishing lure that neither contains nor has been treated by any substance that attracts fish by the sense of taste or smell.
- (4) "Artificial fly" means one single hook dressed with feathers, hair, thread, tinsel, rubber, or any similar material to which no additional hook, spinner, spoon or similar device is added.
- (5) "Youth anglers" are individuals under 18 years of age.

(b) For purposes of this Rule, 15A NCAC 10C .0316, and 15A NCAC 10D .0104, the following classifications apply:

- (1) "Public Mountain Trout Waters" are all waters included in this Rule and so designated in 15A NCAC 10D .0104.
- (2) "Catch and Release/Artificial Flies and Lures Only Trout Waters" are Public Mountain Trout Waters where only artificial flies and lures having one single hook may be used. No trout may be possessed or harvested while fishing these streams. Waters designated as such include tributaries unless otherwise noted.
- (3) "Delayed Harvest Trout Waters" are Public Mountain Trout Waters where between October 1 and one-half hour after sunset on the Friday before the first Saturday of the following June, it is unlawful to possess natural bait, use more than one single hook on an artificial lure, or harvest or possess trout while fishing. From 6:00 a.m. on the first Saturday in June until noon that same day, only youth anglers may fish and these waters have no bait or lure restrictions. From noon on the first Saturday in June until October 1, anglers of all ages may fish and these waters have no bait or lure restrictions. Waters designated as such do not include tributaries unless otherwise noted.
- (4) "Hatchery Supported Trout Waters" are Public Mountain Trout Waters that have no bait or lure restrictions. Waters designated as such do not include tributaries unless otherwise noted.
- (5) "Special Regulation Trout Waters" are Public Mountain Trout Waters where watercourse-specific regulations apply. Waters designated as such do not include tributaries unless otherwise noted.
- (6) "Wild Trout Waters" are Public Mountain Trout Waters which are identified as such in this Rule or 15A NCAC 10D .0104. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing these waters. Waters designated as such do not include tributaries unless otherwise noted.
- (7) "Wild Trout Waters/Natural Bait" are Public Mountain Trout Waters where all artificial lures and natural baits, except live fish, may be used provided they are fished using only one single hook. Waters designated as such include tributaries unless otherwise noted.
- (8) "Undesignated Waters" are all other waters in the State. These waters have no bait or lure restrictions.

(c) Seasons, creel, and size limits. Seasons, creel, and size limits for trout in all waters are listed in Rule .0316 of this Subchapter.

(d) Classifications. This Paragraph designates waters in each county that have a specific classification. Waters on game lands are so designated in 15A NCAC 10D .0104, unless otherwise indicated in this Paragraph. All other waters are classified as Undesignated Waters.

- (1) Alleghany
  - (A) Delayed Harvest Trout Waters are as follows:  
Little River (S.R. 1133 bridge to 275 yards downstream of the intersection of S.R. 1128 and S.R. 1129 [marked by a sign on each bank])
  - (B) Hatchery Supported Trout Waters are as follows:  
Big Pine Creek  
Bledsoe Creek  
Brush Creek (N.C. 21 bridge to confluence with Little River, except where posted against trespassing)  
Cranberry Creek  
(Big) Glade Creek  
Little River (275 yards downstream from the intersection of S.R. 1128 and S.R. 1129 [marked by a sign on each bank] to McCann Dam)  
Meadow Fork  
Pine Swamp Creek  
Piney Fork  
Prathers Creek
  - (C) Wild Trout Waters are as follows:  
All waters located on Stone Mountain State Park
- (2) Ashe County
  - (A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:  
Big Horse Creek (Virginia state line to Mud Creek at S.R. 1363, excluding tributaries)
  - (B) Delayed Harvest Trout Waters are as follows:  
Big Horse Creek (S.R. 1324 bridge to North Fork New River)  
Helton Creek (900 yards upstream of SR 1372 bridge [marked by a sign on each bank] to North Fork New River)  
South Fork New River (upstream end of Todd Island to the SR 1351 bridge)  
Trout Lake
  - (C) Hatchery Supported Trout Waters are as follows:  
Beaver Creek (N.C. 221 to confluence of Beaver Creek and South Beaver Creek)  
Big Horse Creek (Mud Creek at S.R. 1363 to S.R. 1324 bridge)  
Big Laurel Creek (S.R. 1315 bridge to confluence with North Fork New River)  
Buffalo Creek (S.R. 1133 bridge to N.C. 194-88 bridge)  
Cranberry Creek (Alleghany Co. line to South Fork New River)  
Nathans Creek



- North Fork New River (Watauga Co. line to Sharp Dam)  
Old Fields Creek (N.C. 221 to South Fork New River)  
Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)  
Roan Creek  
Three Top Creek
- (3) Avery County
- (A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:  
Elk River (portion on Lees-McRae College property, excluding the millpond)  
Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)  
Wilson Creek (game land portion)
- (B) Hatchery Supported Trout Waters are as follows:  
Boyde Coffey Lake  
Elk River (S.R. 1305 crossing immediately upstream of Big Falls to the Tennessee state line)  
Linville River (S.R. 1504 to the Blue Ridge Parkway boundary line, except where posted against trespassing)  
Milltimber Creek  
North Toe River — upper (Watauga St. to Roby Shoemaker Wetlands and Family Recreational Park, except where posted against trespassing)  
North Toe River — lower (S.R. 1164 to Mitchell Co. line, except where posted against trespassing)  
Squirrel Creek  
Wildcat Lake
- (C) Wild Trout Waters are as follows:  
Birchfield Creek  
Cow Camp Creek  
Cranberry Creek (headwaters to U.S. 19E/N.C. 194 bridge)  
Gragg Prong  
Horse Creek  
Kentucky Creek  
North Harper Creek  
Plumtree Creek  
Roaring Creek  
Rockhouse Creek  
Shawneehaw Creek (portion adjacent to Banner Elk Greenway)  
South Harper Creek  
Webb Prong
- (4) Buncombe County
- (A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:
- (B) Carter Creek (game land portion)  
Hatchery Supported Trout Waters are as follows:  
Bent Creek (headwaters to N.C. Arboretum boundary line)  
Cane Creek (headwaters to S.R. 3138 bridge)  
Corner Rock Creek (Little Andy Creek to confluence with Walker Branch)  
Dillingham Creek (Corner Rock Creek to Ivy Creek)  
Ivy Creek (Ivy River)(Dillingham Creek to U.S. 19-23 bridge)  
Lake Powhatan  
Reems Creek (Sugar Camp Fork to U.S. 19-23 bridge, except where posted against trespassing)  
Rich Branch (downstream from the confluence with Rocky Branch)  
Stony Creek  
Swannanoa (S.R. 2702 bridge near Ridgecrest to Wood Avenue bridge [intersection of N.C. 81 and U.S. 74A in Asheville], except where posted against trespassing)
- (5) Burke County
- (A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:  
Henry Fork (portion on South Mountains State Park)
- (B) Delayed Harvest Trout Waters are as follows:  
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- (C) Hatchery Supported Trout Waters are as follows:  
Carroll Creek (game land portion above S.R. 1405)  
Henry Fork (lower South Mountain State Park line downstream to S.R. 1919 at Ivy Creek)  
Linville River portion within Linville Gorge Wilderness area and portion below Lake James powerhouse from upstream bridge on S.R. 1223 to Muddy Creek)
- (D) Special Regulation Trout Waters are as follows:  
Catawba River (Muddy Creek to City of Morganton water intake dam)
- (E) Wild Trout Waters are as follows:  
All waters located on South Mountains State Park, except those waters identified in Parts A and B of this Subparagraph
- (6) Caldwell County

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| <p>(A) Delayed Harvest Trout Waters are as follows:<br/>Wilson Creek (game land portion below Lost Cove Creek to Philips Branch)</p> <p>(B) Hatchery Supported Trout Waters are as follows:<br/>Boone Fork Pond<br/>Buffalo Creek (mouth of Joes Creek to McCloud Branch)<br/>Joes Creek (first falls upstream of S.R. 1574 to confluence with Buffalo Creek)<br/>Wilson Creek (Phillips Branch to Brown Mountain Beach Dam, except where posted against trespassing)<br/>Yadkin River (Happy Valley Ruritan Community Park to S.R. 1515)</p> <p>(C) Wild Trout Waters are as follows:<br/>Buffalo Creek (Watauga Co. line to Long Ridge Branch including game land tributaries)<br/>Joes Creek (Watauga Co. line to first falls upstream of the end of S.R. 1574)<br/>Rockhouse Creek</p> <p>(7) Cherokee County</p> <p>(A) Hatchery Supported Trout Waters are as follows:<br/>Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)<br/>Hyatt Creek (Big Dam Branch to Valley River)<br/>Junaluska Creek (Ashturn Creek to Valley River)<br/>Shuler Creek (Joe Brown Hwy [S.R. 1325] bridge to Tennessee state line)<br/>Valley River (S.R. 1359 to U.S. 19 Business bridge in Murphy)</p> <p>(B) Special Regulation Trout Waters are as follows:<br/>Apalachia Reservoir</p> <p>(C) Wild Trout Waters/Natural Bait are as follows:<br/>Bald Creek (game land portion)<br/>Dockery Creek (game land portion)</p> <p>(8) Clay County</p> <p>(A) Delayed Harvest Trout Waters are as follows:<br/>Fires Creek (Rockhouse Creek to the foot bridge in the USFS Fires Creek Picnic Area)</p> <p>(B) Hatchery Supported Trout Waters are as follows:<br/>Buck Creek (game land portion downstream of U.S. 64 bridge)<br/>Fires Creek (foot bridge in the USFS Fires Creek Picnic Area to S.R. 1300)</p> | <p>Tusquitee Creek (Compass Creek to lower S.R. 1300 bridge)</p> <p>(9) Graham County</p> <p>(A) Delayed Harvest Trout Waters are as follows:<br/>(Big) Snowbird Creek (USFS footbridge at the old railroad junction to USFS Rd. 2579)</p> <p>(B) Hatchery Supported Trout Waters are as follows:<br/>Calderwood Reservoir (Cheoah Dam to Tennessee state line)<br/>Cheoah Reservoir<br/>Panther Creek (confluence of Stand Creek and Rock Creek to Lake Fontana)<br/>Santeetlah Creek (Johns Branch to Lake Santeetlah)<br/>(Big) Snowbird Creek (USFS Road 2579 to S.R. 1127 bridge)<br/>Stecoah Creek (upper game land boundary to Lake Fontana)<br/>Tulula Creek (S.R. 1201 to lower bridge on S.R. 1275)<br/>West Buffalo Creek<br/>Yellow Creek (Lake Santeetlah hydropower pipeline to Cheoah River)</p> <p>(C) Wild Trout Waters are as follows:<br/>Little Buffalo Creek<br/>South Fork Squally Creek<br/>Squally Creek</p> <p>(D) Wild Trout Waters/Natural Bait are as follows:<br/>Long Creek (game land portion)</p> <p>(10) Haywood County</p> <p>(A) Delayed Harvest Trout Waters are as follows:<br/>West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)</p> <p>(B) Hatchery Supported Trout Waters are as follows:<br/>Cold Springs Creek (Fall Branch to Pigeon River)<br/>Jonathan Creek (upstream S.R. 1302 bridge to Pigeon River, except where posted against trespassing)<br/>Pigeon River (Stamey Cove Branch to upstream U.S. 19-23 bridge)<br/>Richland Creek (Russ Avenue [U.S. 276] bridge to U.S. 19 bridge)<br/>West Fork Pigeon River (Tom Creek to Queen Creek, including portions on game lands, except Middle Prong)</p> <p>(C) Wild Trout Waters/Natural Bait are as follows:<br/>Hurricane Creek</p> <p>(11) Henderson County</p> |
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| <p>(A) Delayed Harvest Trout Waters are as follows:<br/>North Fork Mills River (game land portion below the Hendersonville watershed dam)</p> <p>(B) Hatchery Supported Trout Waters are as follows:<br/>(Rocky) Broad River (end of S.R. 1611 to Rutherford County line)<br/>Cane Creek (railroad bridge upstream of S.R. 1551 bridge to U.S. 25 bridge)<br/>Clear Creek (Laurel Fork to S.R. 1582)<br/>Green River (Lake Summit powerhouse to game land boundary)<br/>(Big) Hungry River (S.R. 1885 to Green River)</p>  | <p>441 bridge [marked by a sign on each bank] to S.R. 1534 bridge at Wilmot)<br/>Wolf Creek Lake</p> <p>(D) Wild Trout Waters are as follows:<br/>Gage Creek<br/>North Fork Scott Creek<br/>Tanasee Creek<br/>Whitewater River (downstream from Silver Run Creek to South Carolina state line)<br/>Wolf Creek (except Balsam Lake and Wolf Creek Lake)</p> <p>(E) Wild Trout Waters/Natural Bait are as follows:<br/>Chattooga River (S.R. 1100 bridge to the South Carolina state line)<br/>Scotsman Creek (game land portion)</p>  |
| <p>(12) Jackson County</p> <p>(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:<br/>Flat Creek<br/>(East Fork) Tuckasegee River (game lands portion upstream of Tanasee Creek Lake, including Duke Energy powerline corridor)<br/>Tuckasegee River (upstream from the Clark property)</p> <p>(B) Delayed Harvest Trout Waters are as follows:<br/>Tuckasegee River (downstream N.C. 107 bridge to the falls located 275 yards upstream of the U.S. 23-441 bridge [marked by a sign on each bank])</p> <p>(C) Hatchery Supported Trout Waters are as follows:<br/>Balsam Lake<br/>Bear Creek Lake<br/>Cedar Cliff Lake<br/>Cullowhee Creek (Tilley Creek to Tuckasegee River)<br/>Dark Ridge Creek (Jones Creek to Scott Creek)<br/>Greens Creek (Greens Creek Baptist Church on S.R. 1370 to Savannah Creek)<br/>Savannah Creek (Shell Branch to Cagle Branch)<br/>Scott Creek (Dark Ridge Creek to Tuckasegee River, except where posted against trespassing)<br/>Tanasee Creek Lake<br/>Tuckasegee River — upper (John Brown Branch to the downstream N.C. 107 bridge)<br/>Tuckasegee River — lower (falls located 275 yards upstream of U.S. 23-</p> | <p>(13) Macon County</p> <p>(A) Delayed Harvest Trout Waters are as follows:<br/>Nantahala River (Whiteoak Creek to Nantahala hydropower discharge canal)</p> <p>(B) Hatchery Supported Trout Waters are as follows:<br/>Burningtown Creek (Left Prong to Little Tennessee River)<br/>Cartoogechaye Creek (downstream U.S. 64 bridge to Little Tennessee River)<br/>Cliffside Lake<br/>Cullasaja River (Sequoyah Dam to U.S. 64 bridge near junction of S.R. 1672)<br/>Nantahala River — upper (Dicks Creek to Whiteoak Creek)<br/>Nantahala River — lower (Nantahala hydropower discharge canal to Swain Co. line)<br/>Queens Creek Lake</p> <p>(C) Wild Trout Waters/Natural Bait are as follows:<br/>Chattooga River (S.R. 1100 bridge to South Carolina state line)<br/>Kimsey Creek<br/>Park Creek<br/>Tellico Creek (game land portion)<br/>Turtle Pond Creek (game land portion)</p> <p>(14) Madison County</p> <p>(A) Delayed Harvest Trout Waters are as follows:<br/>Big Laurel Creek (N.C. 208 bridge to the U.S. 25-70 bridge)<br/>Shelton Laurel Creek (N.C. 208 bridge at Belva to the confluence with Big Laurel Creek)<br/>Spring Creek (N.C. 209 bridge at Hot Springs city limits to iron bridge at end of Andrews Ave.)</p> |

- (B) Hatchery Supported Trout Waters are as follows:  
 Big Laurel Creek (Puncheon Fork to the S.R. 1318 [Big Laurel Rd.] bridge downstream of Bearpen Branch)  
 Big Pine Creek (S.R. 1151 bridge to French Broad River)  
 Little Ivy Creek (confluence of Middle Fork and Paint Fork at Beech Glen to confluence with Ivy Creek at Forks of Ivy)  
 Max Patch Pond  
 Meadow Fork Creek (Meadow Fork Campground to Spring Creek)  
 Puncheon Fork (Wolf Laurel Branch to Big Laurel Creek)  
 Roaring Fork (Fall Branch to Meadow Fork)  
 Shelton Laurel Creek (confluence of Big Creek and Mill Creek to N.C. 208 bridge at Belva)  
 Shut-in Creek  
 Spillcorn Creek  
 Spring Creek (junction of N.C. 209 and N.C. 63 to the confluence with Meadow Fork)  
 West Fork Shut-in Creek (lower game land boundary to confluence with East Fork Shut-in Creek)
- (C) Wild Trout Waters/Natural Bait are as follows:  
 Big Creek (headwaters to the lower game land boundary)
- (15) McDowell County
- (A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:  
 Newberry Creek (game land portion)
- (B) Delayed Harvest Trout Waters are as follows:  
 Catawba River (portion adjacent to Marion Greenway)  
 Curtis Creek (game land portion downstream of the USFS boundary at Deep Branch)  
 Mill Creek (U.S. 70 bridge to I-40 bridge)
- (C) Hatchery Supported Trout Waters are as follows:  
 Armstrong Creek (Cato Holler line downstream to upper Greenlee line)  
 Catawba River (Catawba Falls Campground to Old Fort Recreation Park)  
 Little Buck Creek (game land portion)  
 North Fork Catawba River (headwaters to North Cove School at S.R. 1569 bridge)
- (16) Mitchell County
- (A) Delayed Harvest Trout Waters are as follows:  
 Cane Creek (N.C. 226 bridge to S.R. 1189 bridge)  
 North Toe River (U.S. 19E bridge to N.C. 226 bridge)
- (B) Hatchery Supported Trout Waters are as follows:  
 Big Rock Creek (headwaters to N.C. 226 bridge at S.R. 1307 intersection)  
 Cane Creek (S.R. 1219 to N.C. 226 bridge)  
 East Fork Grassy Creek  
 Grassy Creek (East Fork Grassy Creek to mouth)  
 Little Rock Creek (Green Creek bridge to Big Rock Creek, except where posted against trespassing)  
 North Toe River (Avery Co. line to S.R. 1121 bridge)
- (C) Wild Trout Waters are as follows:  
 Green Creek (headwaters to Green Creek bridge, except where posted against trespassing)  
 Little Rock Creek (above Green Creek bridge, including all tributaries, except where posted against trespassing)  
 Wiles Creek (game land boundary to mouth)
- (17) Polk County
- (A) Delayed Harvest Trout Waters are as follows:  
 Green River (Fishtop Falls Access Area to the confluence with Cove Creek)
- (B) Hatchery Supported Trout Waters are as follows:  
 Green River (Mouth of Cove Creek to the natural gas pipeline crossing)  
 North Pacolet River (Joels Creek to N.C. 108 bridge)
- (18) Rutherford County
- (A) Hatchery Supported Trout Waters are as follows:  
 (Rocky) Broad River (Henderson Co. line to U.S. 64/74 bridge, except where posted against trespassing)
- (19) Stokes County
- (A) Hatchery Supported Trout Waters are as follows:  
 Dan River (Virginia state line downstream to a point 200 yards below the end of S.R. 1421)
- (20) Surry County
- (A) Delayed Harvest Trout Waters are as follows:  
 Ararat River (portion adjacent to the Ararat River Greenway)

- Mitchell River (0.6 miles upstream of the end of S.R. 1333 to the lowermost bridge on S.R. 1330)
- (B) Hatchery Supported Trout Waters are as follows:  
 Ararat River (S.R. 1727 bridge downstream to the N.C. 103 bridge)  
 Big Elkin Creek (dam 440 yards upstream of N.C. 268 bridge to a point 265 yards downstream of N.C. 268 [marked by a sign on each bank])  
 Fisher River (Cooper Creek)(Virginia state line to I-77 bridge)  
 Little Fisher River (Virginia state line to N.C. 89 bridge)  
 Lovills Creek (U.S. 52 Business bridge to Ararat River)  
 Pauls Creek (Virginia state line to .3 miles below S.R. 1625 bridge)
- (21) Swain County
- (A) Delayed Harvest Waters Trout Waters are as follows:  
 Tuckasegee River (U.S. 19 bridge to Slope Street bridge)
- (B) Hatchery Supported Trout Waters are as follows:  
 Alarka Creek (game land boundary to Fontana Reservoir)  
 Calderwood Reservoir (Cheoah Dam to Tennessee state line)  
 Cheoah Reservoir  
 Connelly Creek (Camp Branch to Tuckasegee River)  
 Deep Creek (Great Smoky Mountains National Park Boundary line to Tuckasegee River)  
 Nantahala River (Macon Co. line to existing Fontana Lake water level)
- (22) Transylvania County
- (A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:  
 Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
- (B) Delayed Harvest Trout Waters are as follows:  
 East Fork French Broad River (East Fork Baptist Church to the downstream S.R. 1107 bridge)  
 Little River (confluence of Lake Dense to 100 yards downstream of Hooker Falls)
- (C) Hatchery Supported Trout Waters are as follows:  
 Davidson River (Avery Creek to lower USFS boundary)
- French Broad River (confluence of North Fork French Broad River and West Fork)  
 French Broad River to the Island Ford Rd. [S.R. 1110] Access Area  
 Middle Fork French Broad River (upstream U.S. 178 bridge to French Broad River)  
 West Fork French Broad River (S.R. 1312 to confluence with North Fork French Broad River)
- (D) Wild Trout Waters are as follows:  
 All waters located on Gorges State Park  
 Whitewater River (downstream from Silver Run Creek to South Carolina state line)
- (E) Wild Trout Waters/Natural Bait are as follows:  
 North Fork French Broad River (game land portion downstream of S.R. 1326)  
 Thompson River (S.R. 1152 to South Carolina state line, except where posted against trespassing)
- (23) Watauga County
- (A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:  
 Laurel Creek (confluence of North and South Fork Laurel creeks to Elk Creek, excluding tributaries)  
 Pond Creek (headwaters to Locust Ridge Rd. bridge, excluding the pond adjacent to Coffee Lake)
- (B) Delayed Harvest Trout Waters are as follows:  
 Lake Coffey  
 Watauga River – upper (S.R. 1114 bridge to Valle Crucis Community Park lower boundary)  
 Watauga River – lower (S.R. 1103 bridge to confluence with Laurel Creek)
- (C) Hatchery Supported Trout Waters are as follows:  
 Beaverdam Creek (confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of S.R. 1201 and S.R. 1203)  
 Beech Creek  
 Buckeye Creek (Buckeye Creek Reservoir dam to Grassy Gap Creek)  
 Buckeye Creek Reservoir  
 Cove Creek (S.R. 1233 bridge at Zionville to S.R. 1214 bridge at Sherwood)

- Dutch Creek (second bridge on S.R. 1134 to mouth)  
 Elk Creek (S.R. 1510 bridge at Triplett to Wilkes Co. line, except where posted against trespassing)  
 Laurel Creek (S.R. 1123 bridge at S.R. 1157 intersection to Watauga River)  
 Meat Camp Creek (S.R. 1340 bridge at S.R. 1384 intersection to N.C. 194)  
 Middle Fork New River (adjacent to intersection of S.R. 1539 and U.S. 321 to South Fork New River)  
 Norris Fork Creek  
 South Fork New River (canoe launch 70 yards upstream of U.S. 421 bridge to lower boundary of Brookshire Park)  
 Stony Fork (S.R. 1500 bridge at S.R. 1505 intersection to Wilkes Co. line)
- (D) Wild Trout Waters are as follows:  
 Dutch Creek (headwaters to second bridge on S.R. 1134)  
 Howard Creek  
 Maine Branch (headwaters to North Fork New River)  
 North Fork New River (from confluence with Maine and Mine branches to Ashe Co. line)  
 Watauga River (Avery Co. line to S.R. 1580 bridge)  
 Winkler Creek (lower bridge on S.R. 1549 to confluence with South Fork New River)
- (24) Wilkes County  
 (A) Delayed Harvest Trout Waters are as follows:  
 East Prong Roaring River (Bullhead Creek downstream to Stone Mountain State Park lower boundary)  
 Elk Creek — upper (Watauga Co. line to lower boundary of the Blue Ridge Mountain Club)  
 Elk Creek — lower (portion on Leatherwood Mountains development)  
 Reddies River (Town of North Wilkesboro water intake dam to confluence with the Yadkin River)  
 Stone Mountain Creek (from falls at Alleghany Co. line to confluence with East Prong Roaring River and Bullhead Creek)  
 (B) Hatchery Supported Trout Waters are as follows:  
 Basin Creek (S.R. 1730 bridge to confluence with Lovelace Creek)  
 Bell Branch Pond  
 Boundary Line Pond  
 Cub Creek (.5 mile upstream of S.R. 2460 bridge to S.R. 1001 bridge)
- Darnell Creek (North Prong Reddies River)(downstream ford on S.R. 1569 to confluence with North Fork Reddies River)  
 East Prong Roaring River (Stone Mountain State Park lower boundary to S.R. 1002 bridge)  
 Fall Creek (S.R. 1300 bridge to confluence with South Prong Lewis Fork, except where posted against trespassing)  
 Middle Fork Reddies River (Clear Prong)(headwaters to bridge on S.R. 1580)  
 Middle Prong Roaring River (headwaters to second bridge on S.R. 1736)  
 North Fork Reddies River (Vannoy Creek)(headwaters to Union School bridge on S.R. 1559)  
 Pike Creek  
 Pike Creek Pond  
 South Fork Reddies River (S.R. 1355 bridge to confluence with Middle Fork Reddies River)  
 South Prong Lewis Fork (Fall Creek to U.S. 421 bridge adjacent to S.R. 1155 intersection)
- (C) Wild Trout Waters are as follows:  
 All waters located on Stone Mountain State Park, except East Prong Roaring River from Bullhead Creek downstream to the Stone Mountain State Park lower boundary where Delayed Harvest Trout Waters regulations apply, and Stone Mountain Creek from falls at Alleghany County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park where Delayed Harvest Trout Waters regulations apply
- (25) Yancey County  
 (A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:  
 South Toe River (headwaters to Upper Creek)  
 Upper Creek  
 (B) Delayed Harvest Trout Waters are as follows:  
 Cane River (Blackberry Ridge Rd. to downstream boundary of Cane River County Park)  
 (C) Hatchery Supported Trout Waters are as follows:  
 Bald Mountain Creek (except where posted against trespassing)

- Cane River (Bee Branch [S.R. 1110] to Bowlens Creek)  
 Price Creek (junction of S.R. 1120 and S.R. 1121 to Indian Creek)  
 South Toe River (Clear Creek to lower boundary line of Yancey Co. Recreation Park, except where posted against trespassing)
- (D) Wild Trout Waters are as follows:  
 Cattail Creek (bridge at Mountain Farm Community Rd. to N.C. 197 bridge)  
 Lickskillet Creek  
 Middle Creek (game land boundary to mouth)

*History Note: Authority G.S. 113-272; 113-292; Eff. February 1, 1976;*  
*Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. July 1, 2000;*  
*Temporary Amendment Eff. July 1, 2001;*  
*Temporary Amendment Eff. July 1, 2002;*  
*Amended Eff. August 1, 2002 (approved by RRC on 6/21/01 and 04/18/02);*  
*Temporary Amendment Eff. June 1, 2003;*  
*Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);*  
*Amended Eff. August 1, 2018; August 1, 2017; August 1, 2016; August 1, 2015; August 1, 2014; August 1, 2013; August 1, 2012; August 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005;*  
*Readopted Eff. August 1, 2019;*  
*Amended Eff. August 1, 2022; August 1, 2021; August 1, 2020.*

#### **15A NCAC 10C .0314 STRIPED BASS**

- (a) The daily creel limit for Striped Bass and its hybrids is four fish in the aggregate, except in waters identified in Paragraphs (b), (e), (f), (g), (h), (i), and (j) of this Rule. The minimum size limit for these fish is 20 inches, except in waters identified in Paragraphs (b), (c), (d), (e), (f), (g), (h), (i), and (j) of this Rule. There is no closed season, except for waters identified in Paragraphs (g), (h), (i), (j), and (k) of this Rule.
- (b) In the Dan River upstream from its confluence with Bannister River to the dam at Union Street in Danville, VA and in John H. Kerr Reservoir, the daily creel limit on Striped Bass and its hybrids is two in the aggregate and the minimum size limit is 20 inches from October 1 through May 31. From June 1 through September 30, the daily creel limit on Striped Bass and its hybrids is four in the aggregate with no minimum size limit.
- (c) In Lake Gaston and Roanoke Rapids Reservoir, the minimum size limit for Striped Bass and its hybrids is 20 inches from October 1 through May 31. There is no minimum size limit for these fish from June 1 through September 30.
- (d) In Hyco Lake, Moss Lake, Mountain Island Reservoir, Oak Hollow Lake, Lake Thom-A-Lex, Lake Townsend, and Salem Lake the minimum size limit for Striped Bass and its hybrids is 16 inches.

- (e) In Lake Chatuge in Clay County, the daily creel limit is 15 in the aggregate. There is no minimum size limit, but only two may be greater than 22 inches.
- (f) In Lake Mattamuskeet, and in the Pee Dee River and its tributaries downstream from the Blewett Falls Dam to the South Carolina state line, the daily creel limit for Striped Bass and its hybrids is three fish in the aggregate, and the minimum size limit is 18 inches.
- (g) In the inland fishing waters of Neuse, Pungo, and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and in all other inland fishing waters east of Interstate 95 not specified in Paragraphs (f), (h), (i), and (j) of this Rule, the daily creel limit for Striped Bass and its hybrids is two fish in the aggregate. The minimum size limit is 26 inches. In these waters, the season for taking and possessing Striped Bass is closed from May 1 through September 30.
- (h) In the inland fishing waters of the Cape Fear River and its tributaries downstream of Buckhorn Dam and in the ponds associated with Martin Marietta Park in Craven County, the season for taking and possessing Striped Bass is closed year-round.
- (i) In the inland and joint fishing waters of the Roanoke River Striped Bass Management Area, as established in 15A NCAC 03R .0201 and identified in 15A NCAC 10C .0110, which includes the Roanoke, Cashie, Middle, and Eastmost rivers and their tributaries, the open season for taking and possessing Striped Bass and its hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season, the daily creel limit for Striped Bass and its hybrids is one fish in the aggregate, and the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be possessed in the daily creel limit.
- (j) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), the Striped Bass fishing season, size limits, and creel limits are the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.
- (k) In accordance with G.S. 113-292, the Executive Director may, by proclamation, suspend, or extend the hook-and-line season for Striped Bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.

*History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*  
*Eff. November 1, 2013;*  
*Amended Eff. June 1, 2018; August 1, 2016; August 1, 2015; August 1, 2014;*  
*Readopted Eff. August 1, 2019;*  
*Amended Eff. August 1, 2021; August 1, 2020;*  
*Temporary Amendment Eff. November 30, 2021;*  
*Amended Eff. August 1, 2022.*

# 15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE

(a) For purposes of this Subchapter, the following definitions apply:

- (1) "Permanent Hunting Blind" means any structure that is used for hunter concealment, constructed from manmade or natural materials, and that is not disassembled and removed at the end of each day's hunt.
- (2) "Target shooting" means the discharge of a firearm for purposes other than hunting, trapping, or self-defense.
- (3) "Youth" means individuals under 18 years of age.

(b) Trespass. Entry on game lands for purposes other than hunting, trapping, or fishing shall be as authorized by the landowner. The Wildlife Resources Commission has identified the following areas on game lands that have additional restrictions on entry or usage:

- (1) Archery Zone. On portions of game lands posted as "Archery Zones" hunting is limited to bow and arrow hunting and falconry only. On these areas, deer of either sex may be taken on all open days of any applicable deer season.
- (2) Safety Zone. On portions of game lands posted as "Safety Zones" hunting is prohibited. No person shall hunt or discharge a firearm or bow and arrow within, into, or across a posted safety zone on any game land. Falconry is exempt from this provision.
- (3) Restricted Firearms Zone. On portions of game lands posted as "Restricted Firearms Zones" the use of centerfire rifles is prohibited.
- (4) Restricted Zone. Portions of game lands posted as "Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission. Entry shall be authorized only when such entry will not compromise the primary purpose for establishing the Restricted Zone and the person or persons requesting entry are able to demonstrate a valid need or such person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.
- (5) Temporary Restricted Zone. Portions of game lands posted as "Temporary Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission. An area of a game land shall be

declared a Temporary Restricted Zone when there is a danger to the health or welfare of the public.

- (6) Scouting-only Zone. On portions of the game lands posted as "Scouting-only Zones" the discharge of firearms or bow and arrow is prohibited.
- (7) Restricted Deer Hunting Zone. On portions of game lands posted as "Restricted Deer Hunting Zones" the use of dogs for taking deer is prohibited, except as allowed by permit as provided in G.S. 113-264(d).
- (8) Day Use Only Zone. On portions of game lands posted as "Day Use Only Zones" the use by the general public shall be prohibited from sunset to sunrise.
- (9) Sensitive Habitat Zone. Portions of game lands posted as "Sensitive Habitat Zones" are closed to all use by the general public during the dates specified on the sign, and entry upon such an area for any purpose is prohibited without first obtaining written approval of such entry or use from an authorized agent of the Wildlife Resources Commission by calling 919-707-0150 and requesting a permit.

The Commission shall conduct a public input meeting in the area where the game land is located before establishing the following zones: archery, restricted firearms, restricted deer hunting, day use only, or sensitive habitat. After the input meeting, the public comments shall be presented at an official Commission meeting for final determination.

(c) Littering. No person shall deposit any litter, trash, garbage, or other refuse at any place on any game land except in receptacles provided for disposal of such refuse at designated camping and target-shooting areas. No garbage dumps or sanitary landfills shall be established on any game land by any person, firm, corporation, county, or municipality, except as permitted by the landowner.

(d) Use of weapons. No person shall discharge:

- (1) any weapon within 150 yards of any game land building or designated game land camping area, except where posted otherwise;
- (2) any weapon within 150 yards of any residence located on or adjacent to game lands, except on Butner-Falls of Neuse and Jordan game lands; and
- (3) any firearm within 150 yards of any residence located on or adjacent to Butner-Falls of Neuse and Jordan Game Lands.

No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting on any posted waterfowl impoundment on any game land, except shotgun shells containing lead buckshot may be used while deer hunting. Every individual carrying a concealed handgun shall adhere to the requirements set forth in G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina. On Butner-Falls of Neuse, Jordan, Kerr Scott, and Vance game lands, no person shall possess loaded firearms, ammunition, bows and arrows, crossbows, or other weapons except as provided in the Code of Federal Regulations, Title 36, Chapter III, Part 327.13,



which is incorporated by reference, including subsequent amendments and editions, free of charge, at:

[http://www.ecfr.gov/cgi-bin/text-idx?SID=75b0c14fb2c26906cf64a267eb69b052&mc=true&node=se36.3.327\\_113&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=75b0c14fb2c26906cf64a267eb69b052&mc=true&node=se36.3.327_113&rgn=div8).

On Buckhorn, Chatham, Harris, Hyco, Lee, Mayo, and Sutton Lake game lands; Pee Dee River Game Land north of U.S. 74; and that portion of R. Wayne Bailey- Caswell Game Land that is located north of U.S. 158 and east of N.C. 119, no person shall possess a firearm during closed hunting seasons or closed hunting days for game birds or game animals, except under the following conditions:

- (1) the firearm is a .22 caliber pistol with a barrel not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition carried as a side arm;
  - (2) the firearm is cased or not immediately available for use;
  - (3) the firearm is used by persons participating in field trials on field trial areas; or
  - (4) the firearm is possessed in designated camping areas for defense of persons and property.
- (e) Game Lands License: Hunting and Trapping
- (1) Requirement. Except as provided in Subparagraph (4) of this Paragraph, any person entering upon any game land for the purpose of hunting, trapping, running dogs, or training dogs using wildlife shall have in his or her possession a game lands license in addition to the appropriate hunting or trapping license, or a license that conveys the game land use privilege.
  - (2) For Commission-sanctioned field trials, active participants (as defined in 15A NCAC 10B .0114) in a field trial using wildlife shall possess a game lands license in addition to the appropriate North Carolina hunting license, or a license that conveys the game land use privilege, except non-residents may substitute hunting licenses from their state(s) of residence.
  - (3) For any other field trial using wildlife occurring on game lands, judges and active participants shall possess a game lands license in addition to the appropriate North Carolina hunting license, or a license that conveys the game land use privilege.
  - (4) Exceptions:
    - (A) a person under 16 years of age may hunt on game lands on the license of his parent or legal guardian;
    - (B) on the game lands described in Rule .0103(e)(1) of this Section, the game lands license is required only for hunting doves; all other activities are subject to the control of the landowners.
- (f) Field Trials and Training Dogs. Any individual or organization sponsoring a field trial on the Sandhills Field Trial area shall file with the Commission an application to use the area

and facility accompanied by the facility use fee computed at the rate of two hundred dollars (\$200.00) for each scheduled day of the trial. The total facility use fee shall cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee shall be paid for all intermediate days on which for any reason trials are not run but the building or facilities are used or occupied. A fee of seventy-five dollars (\$75.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or any other entity shall enter or use in any manner any of the physical facilities located on the Sandhills Field Trial area or the Laurinburg Fox Trial facility without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the approved use. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 16 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than four days may be scheduled during any calendar week; provided, that a field trial requiring more than four days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of 16 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other organization desiring use of the Sandhills facilities between October 22 and November 18 and between December 3 and March 31 shall submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays, and Saturdays from October 1 through April 1. Dogs may not be trained or permitted to run unleashed from April 1 through August 15 on any game land located west of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Dogs may not be trained or permitted to run unleashed from March 15 through June 15 on any game land located east of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Additionally, on game lands located west of I-95 where special hunts are scheduled for sportsmen participating in the Disabled Sportsman Program, dogs may not be trained or allowed to run unleashed during legal big game hunting hours on the dates of the special hunts. A field trial shall be authorized when such field trial does not conflict with other planned activities on the Game Land or field trial facilities, and the applying organization can demonstrate their experience and expertise in conducting genuine field trial activities. Entry to physical facilities, other than by field trial organizations under permit, shall be granted when they do not conflict with other planned activities previously approved by the Commission and they do not conflict with the mission of the agency.

(g) Trapping. Subject to the restrictions contained in 15A NCAC 10B .0110, .0302, and .0303, trapping of furbearing animals, armadillos, coyotes, and groundhogs is permitted on game lands during the applicable open trapping seasons established by rule. Foxes can be trapped on game lands from November 1 through

the end of February in any county with an open fox trapping season that falls between November 1 and the end of February. Foxes may not be taken by trapping on game lands in counties with a closed fox trapping season or during any fox trapping season that occurs outside the dates of November 1 through the end of February. Additionally, fox trapping is allowed on game lands in Clay, Graham, Henderson, Macon, and Tyrrell counties with a daily bag limit of two and a season bag limit of 10 from the first to the fourth Saturday in January. Trapping is prohibited:

- (1) on the J Robert Gordon Field Trial Area of Sandhills Game Land;
- (2) in posted "safety zones" located on any game land;
- (3) by the use of bait on the National Forest Lands bounded by the Blue Ridge Parkway on the south, US 276 on the north and east, and NC 215 on the west; and
- (4) on the DuPont State Forest Game Lands; and
- (5) from April 1 through October 31.

At each trap, trappers may use a single bait site of grain, fruit, or other foods when trapping if the food is not a processed food product as defined in G.S.113-294(r), is less than 3 cubic inches and is covered to prevent it from being seen from above. Feathers, including those with attached skin or entire bird wings, hair with or without skin or hide, and bones that include no attached meat, organs, or viscera do not need to be covered.

(h) Vehicular Traffic. No person shall drive a motorized vehicle on any game land except on those roads constructed, maintained, and opened for vehicular travel and those trails posted for vehicular travel, unless such person:

- (1) is driving in the vehicle gallery of a scheduled bird dog field trial held on the Sandhills Game Land; or
- (2) is a disabled sportsman as defined in Paragraph (k) of this Rule or holds a Disabled Access Program Permit as described in Paragraph (m) of this Rule and is abiding by the rules described in Paragraph (m).

(i) Camping.

- (1) No person shall camp on any game land except on an area designated by the landowner for camping.
- (2) On game lands owned by the State of North Carolina, where the North Carolina Wildlife Resources Commission is the primary custodian, the maximum period of consecutive overnight camping at any designated camping area is 14 days within any 30-day period from May 1 through August 31, unless otherwise specified in rules of this Subchapter. After 14 consecutive days of camping, all personal belongings shall be removed from the game land.

(j) Swimming. Swimming is prohibited in the lakes located on the Sandhills Game Land.

(k) Disabled Sportsman Program. In order to qualify for permit hunts for disabled sportsmen offered by the Commission and use of designated blinds during those hunts, an individual shall possess a Disabled Veteran Sportsman license, a Totally Disabled

Sportsman license, or a disabled sportsman hunt certification issued by the Commission. In order to qualify for the certification, the applicant shall provide medical certification of one or more of the following disabilities:

- (1) missing 50 percent or more of one or more limbs, whether by amputation or natural causes;
- (2) paralysis of one or more limbs;
- (3) dysfunction of one or more limbs rendering the person unable to perform the task of grasping and lifting with the hands and arms or unable to walk without mechanical assistance, other than a cane;
- (4) disease, injury, or defect confining the person to a wheelchair, walker, or crutches; or
- (5) deafness.

On game lands where the privileges described in Paragraph (m) of this Rule apply, participants in the program may operate electric wheel chairs, all terrain vehicles, or other passenger vehicles:

- (1) on ungated or open-gated roads normally closed to vehicular traffic; and
- (2) on any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel.

Each program participant may be accompanied by one companion provided such companion has in his possession the companion card issued by the Commission. Hunters who qualify under the Disabled Sportsman Program and their companions may access special hunting blinds for people with disabilities during regularly scheduled, non-permit hunting days on a first come basis, except for those blinds located on the Restricted Area of Caswell Game Land.

(l) Release of Animals and Fish. It is unlawful to release pen-raised animals or birds, wild animals or birds, domesticated animals, except hunting dogs and raptors where otherwise permitted for hunting or training purposes, or feral animals, or hatchery-raised fish on game lands without prior written authorization. It is unlawful to move wild fish from one stream to another on game lands without prior written authorization. Written authorization shall be given when release of such animals is determined by a Wildlife Resources Commission biologist not to be harmful to native wildlife in the area and such releases are in the public interest or advance the programs and goals of the Wildlife Resources Commission.

(m) Non-Highway Licensed Vehicles. It is unlawful to operate motorized land vehicles not licensed for highway use on Game Lands except for designated areas on National Forests. Disabled persons as defined in Paragraph (k) of this Rule and people who have obtained a Disabled Access Program permit are exempt from the previous sentence but shall comply with the terms of their permit. Furthermore, disabled persons, as defined under the federal Americans with Disabilities Act (42 U.S.C. 126) may use wheelchairs or other mobility devices designed for indoor pedestrian use on any area where foot travel is allowed.

(n) Disabled Access Program. Permits issued under this program shall be based upon medical evidence submitted by the person verifying that a handicap exists that limits physical mobility to the extent that normal utilization of the game lands is not possible without vehicular assistance. Persons meeting this requirement

may operate electric wheel chairs, all terrain vehicles, and other passenger vehicles on any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel and ungated or open-gated roads otherwise closed to vehicular traffic on game lands owned by the Wildlife Resources Commission and on game lands whose owners have agreed to such use. Those game lands, or parts thereof, where this Paragraph applies are designated online, at [www.ncwildlife.org](http://www.ncwildlife.org). This Paragraph does not permit vehicular access on fields, openings, roads, paths, or trails planted for wildlife food or cover. One companion, who is identified by a companion card issued to each qualified disabled person, may accompany a disabled person to provide assistance, provided the companion is at all times in visual or verbal contact with the disabled person. The companion may participate in all lawful activities while assisting a disabled person, provided license requirements are met. Any vehicle used by a qualified disabled person for access to game lands under this provision shall display the vehicular access permit issued by the Wildlife Resources Commission in the passenger area of the vehicle where it can easily be seen by Commission staff outside the vehicle. It is unlawful for anyone other than disabled persons as defined in Paragraph (k) of this Rule and those holding a Disabled Access Permit to hunt, during waterfowl season, within 100 yards of a waterfowl blind designated by the Wildlife Resources Commission as a Disabled Sportsman's hunting blind.

(o) **Public nudity.** Public nudity, including nude sunbathing, is prohibited on any game land, including land or water. For the purposes of this Section, "public nudity" means a person's intentional failure to cover with a fully opaque covering the person's genitals, pubic area, anal area, or female breasts below a point from the top of the areola while in a public place.

(p) **Shooting Ranges.** On public shooting ranges managed by the Commission, no person shall use designated shooting ranges for any purpose other than for firearm or bow and arrow marksmanship, development of shooting skills, or for other safe uses of firearms and archery equipment. All other uses, including camping, building fires, operating concessions or other activities not directly involved with recreational or competitive shooting are prohibited, except for activities that have been approved by the Commission and for which a permit has been issued may be conducted, provided that the permit authorizing such activity is available for inspection by wildlife enforcement officers at the time the activity is taking place. No person, when using any shooting range, shall deposit any debris or refuse on the grounds of the range. This includes any items used as targets, except that clay targets broken on the range, by the shooter, may be left on the grounds where they fall. No person shall shoot any items made of glass on the grounds of the range. No person may leave any vehicle or other obstruction in such a location or position that it will prevent, impede, or inconvenience the use by other persons of any shooting range. No person shall leave parked any vehicle or other object at any place on the shooting range other than such a place or zone as is designated as an authorized parking zone and posted or marked as such. No person shall handle any firearms or bow and arrow on a shooting range in a careless or reckless manner. No person shall intentionally shoot into any target holder, post, or other permanent fixture or structure while using a shooting range. No person shall shoot a firearm in a manner that would cause any rifled or smoothbore projectiles to travel off of

the range, except that shotgun shot, size No. 4 or smaller may be allowed to travel from the range if it presents no risk of harm or injury to any person(s). Persons using a shooting range shall obey posted range safety rules and those persons who violate range safety rules or create a public safety hazard shall leave the shooting range if directed to by law enforcement officers or to leave by Commission employees. No person shall handle any firearms on a shooting range while under the influence of an impairing substance. The consumption of alcohol or alcoholic beverages on a shooting range is prohibited. Open days and hours of operation shall be designated on signs and at least one such sign shall be posted at the entrance to each shooting range. No person, when using any shooting range, shall do any act that is prohibited or neglect to do any act that is required by signs or markings placed on such area under authority of this Rule for the purpose of regulating the use of the area.

(q) **Limited-access Roads.** During the months of June, July, and August, roads posted as "Limited-access Roads" are open to motorized vehicles from 5:00 a.m. to 10:00 p.m. only. These roads shall be posted with the opening and closing times.

(r) No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal that has been so mutilated.

(s) **Baiting.** Except as provided in Paragraph (g) of this Rule, no person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization from an agent of the Commission. Written authorization may be provided for Commission authorized projects or Commission contractors to meet specific objectives. Except as authorized by rule, no person shall take or attempt to take any wild birds or wild animals attracted to such foods.

*History Note: Authority G.S. 113-129; 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 143-318.10;*

*Eff. February 1, 1976;*

*Amended Eff. July 1, 1993; April 1, 1992;*

*Temporary Amendment Eff. October 11, 1993;*

*Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. July 1, 2000;*

*Temporary Amendment Eff. August 31, 2001;*

*Amended Eff. August 1, 2002;*

*Amended Eff. June 1, 2004; (this amendment replaces the amendment approved by RRC on July 17, 2003);*

*Amended Eff. January 1, 2013; January 1, 2012; June 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; November 1, 2005;*

*Temporary Amendment Eff. July 1, 2014;*

*Amended Eff. August 1, 2022; August 1, 2021; August 1, 2020; August 1, 2017; August 1, 2016; May 1, 2015; August 1, 2014.*

#### **15A NCAC 10E .0104 USE OF AREAS REGULATED**

(a) No person shall leave any vehicle, boat trailer or other obstruction on any public fishing or boating access area in such a location, position or condition that prevents or impedes the use by other persons of any ramp or other facility constructed for the purpose of launching or landing boats or fishing.

(b) No person shall park a vehicle, boat, boat trailer, or other object at a public fishing or boating access area unless parking in a designated parking zone. Public fishing or boating access areas and facilities remain available for use when designated parking zones are at capacity. When designated parking zones are at capacity, any person may enter and use the areas or facilities, provided other arrangements for parking are made that do not violate this Rule or the regulations of this Subchapter, if applicable. No person shall operate a vehicle at a public fishing or boating access area in a manner that endangers life, limb, or property.

(c) No person shall possess a loaded firearm on any public fishing or boating access area, except that a handgun may be carried by an individual with a valid concealed handgun permit. The individual carrying a handgun must adhere to the requirements set forth in North Carolina G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina. The permission to carry a handgun does not apply to access areas on the following game lands:

- (1) Bladen Lakes State Forest
- (2) Buckhorn
- (3) Butner-Falls of Neuse
- (4) Chatham
- (5) DuPont State Forest
- (6) Harris
- (7) Hyco
- (8) Jordan
- (9) Kerr Scott
- (10) Lee
- (11) Mayo
- (12) Pee Dee River north of U.S 74
- (13) Sutton Lake
- (14) Vance
- (15) the portion of R. Wayne Bailey-Caswell that is located north of U.S. 158 and east of N.C. 119

(d) No person, when using any public fishing or boating access area, shall deposit debris or refuse anywhere on the grounds of the area. No person, when using any public fishing or boating access area, shall do any act that is prohibited or neglect to do any act that is required by signs or markings placed on such area under authority of this Rule for the purpose of regulating the use of the area.

(e) No person shall operate a motorboat in the public waters of North Carolina within 50 yards of a Commission-owned or managed boat launching ramp at greater than "no wake" speed. For the purpose of this Rule, "no wake" speed means idling speed or a slow speed creating no appreciable wake.

(f) Except where facilities are provided or permits are issued, it is unlawful to use any boating access area for purposes other than the launching and retrieving of vessels and parking vehicles with vessel trailers. All other uses, including swimming, skiing, camping, building fires, operating concessions or other activities not directly involved with launching and retrieving of vessels are prohibited, except those activities for which the Commission has issued a permit. All organized activities and events require a permit from the Commission and can be applied for at [www.ncwildlife.org](http://www.ncwildlife.org). Permits shall be available for inspection by wildlife enforcement officers at the time the activity is taking place.

(g) Unless otherwise posted, it is unlawful to use any public fishing area for purposes other than fishing.

(h) It is unlawful to feed or release animals or birds, domesticated animals and feral animals on public fishing or boating access areas without prior written authorization of the Wildlife Resources Commission. Written authorization will only be granted to persons acting on behalf of the Commission, to persons conducting scientific investigations or surveys, and for release of rehabilitated wildlife. Written authorization will not be granted for any feeding or release that is inimical to the conservation of native wildlife resources. For the purpose of enforcing this Paragraph, "domesticated animals" does not include pets under the control of the owner and raptors or hunting dogs where otherwise permitted for hunting or training purposes.

(i) The use of gasoline powered motors on Ethridge Pond Public Fishing Area and Newbold Pond Public Fishing Area in Edgecombe County is prohibited.

*History Note:* Authority G.S. 113-134; 113-264;

*Eff. February 1, 1976;*

*Amended Eff. August 1, 2022; August 1, 2019; August 1, 2012; August 1, 2010; May 1, 2009; July 1, 1995; February 1, 1994; September 1, 1992; July 1, 1991.*

#### **15A NCAC 10H .1301 SALE OF NATIVE TURTLES**

(a) Buying or selling any native turtle species is prohibited except for snapping turtles (*Chelydra serpentina*) with a curved carapace length of 13 inches or greater as authorized by 15A NCAC 10B .0119.

(b) Violators shall be subject to a replacement cost per individual turtle that shall equal the replacement cost for "species with no open season" as set forth in 15A NCAC 10B .0117(c).

*History Note:* Authority G.S. 113-333(a)(6);

*Eff. May 1, 2007;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;*

*Amended Eff. August 1, 2022; November 1, 2019.*

#### **15A NCAC 10H .1302 POSSESSION OF REPTILES AND AMPHIBIANS**

(a) Possession permits are required for the possession, importation, transportation, purchase, and sale of:

- (1) 25 or more individuals of any combination of native amphibian species; or
- (2) five or more individuals of native reptile species.

(b) Possession permits are required for the rehabilitation of native reptiles and amphibians.

(c) Nothing in this Rule shall be construed to authorize the collection of any wildlife resources from the wild or the taking, possession, transportation, sale, purchase, or release to the wild of any wildlife resources or their parts in violation of State or federal laws or regulations.

(d) At no time shall permitted animals be released to the wild, except under situations of research or rehabilitation with written permission from the Wildlife Resources Commission.

(e) A possession permit shall not be issued for:

- (1) holding reptiles and amphibians that were acquired unlawfully;
- (2) holding reptiles and amphibians for unlawful sale or trade;
- (3) individuals collecting snapping turtles under the collection license set forth in 15A NCAC 10B .0119;
- (4) collection of native reptiles and amphibians from the wild;
- (5) individuals in violation of the requirements of a collection license, as set forth in 15A NCAC 10B .0119, an endangered species permit, as set forth in 15A NCAC 10I .0100, or a possession permit as set forth in this Section; or
- (6) individuals who do not first obtain possession permits prior to acquiring the following wildlife resources in Paragraph (a) of this Rule.

(f) Unless a more limited duration is designated on the permit, possession permits shall be valid from January 1 through December 31 of the applicable year.

(g) Individuals permitted under this Rule shall submit a report to the Wildlife Resources Commission within 15 days following the date of permit expiration. The report shall contain the numbers of each species held under the permit and the use or disposition thereof.

(h) Any individual engaged in the purchased transportation and sale of more than 100 snapping turtles is required to have a possession permit. Permitted individuals shall submit the numbers of snapping turtles taken under the permit and the use or disposition thereof to the Wildlife Resources Commission within 15 days of permit expiration.

*History Note: Authority G.S. 113-274(c)(1c); Eff. May 1, 2007; Amended Eff. May 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. August 1, 2022; November 1, 2019; August 1, 2017.*

#### **15A NCAC 10H .1402 CAPTIVITY LICENSE FOR REHABILITATION**

(a) A captivity license for rehabilitation shall be required for lawful possession of injured, crippled, or orphaned native wild animals or wild birds for the purpose of providing short term care and eventual release into the animal's natural habitat. A captivity license for rehabilitation shall not be issued for:

- (1) endangered, threatened, or special concern species as defined by 15A NCAC 10I .0100. Rehabilitation of these species requires an endangered species permit from the Commission;
- (2) domestic animals;
- (3) feral swine;
- (4) nutria;
- (5) coyote;
- (6) adult black bear;
- (7) adult white-tailed deer or elk;
- (8) nine-banded armadillo; or
- (9) eggs of upland game birds.

(b) A captivity license for rehabilitation shall not be issued for the purpose of holding wild animals or wild birds:

- (1) as pets;
- (2) for education, exhibition, or scientific purposes, except as provided in Rule .1403 of this Section;
- (3) for dog training;
- (4) for hunting; or
- (5) acquired unlawfully.

(c) Individuals who do not possess a captivity license for rehabilitation may take temporary possession of injured, crippled, or orphaned wild animals or wild birds, provided they are surrendered to a North Carolina licensed veterinarian or an individual licensed under this Rule within 24 hours of taking possession of such animals.

(d) North Carolina licensed veterinarians providing medical care to sick, injured, or crippled wild animals or wild birds are not required to have a license for rehabilitation from the Commission. North Carolina licensed veterinarians without a captivity license for rehabilitation may hold wild animals or wild birds until the animal is medically stable. Once medically stable, the wild animal or wild bird shall be transferred to an individual possessing a captivity license for rehabilitation with the appropriate category for the given species. Licensed veterinarians rehabilitating wild animals or wild birds shall have a valid captivity license for rehabilitation.

(e) Individuals applying for a captivity license for rehabilitation that have never held this license in North Carolina or a similar license in another state shall be designated as an apprentice. The following requirements shall apply to an apprentice license:

- (1) On the application, the apprentice shall designate a mentor with a valid captivity license for rehabilitation in NC, who has held that license for two or more years;
- (2) An apprentice shall complete at least 12 months of supervised rehabilitation activities under a licensed rehabilitator; and
- (3) An apprentice license shall only authorize the possession of squirrels, rabbits, and opossums.

(f) Individuals applying for a captivity license for rehabilitation shall meet statutory and regulatory requirements, including those in G.S. 113-272.5 and all applicable rules of this Section. Individuals seeking to rehabilitate migratory birds shall provide proof of a valid and concurrent U.S. Fish and Wildlife Service Federal Migratory Bird Rehabilitation permit for each category of migratory birds to be rehabilitated. The Commission shall state on the captivity license for rehabilitation the categories of wild animals and wild birds that the individual is licensed to possess.

(g) Required facilities.

- (1) Individuals holding a captivity license for rehabilitation shall conduct their rehabilitation activities at the facility designated on their license that meets the minimum standards set forth in the "Miller, E.A., edition. 2000. Minimum Standards for Wildlife Rehabilitation, 3rd edition. National Wildlife Rehabilitators Association, St. Cloud, MN. 116 pages. ISBN 1-931439-00-1." This publication is hereby incorporated by reference, excluding

- subsequent amendments and editions, and is available at no cost at [http://www.nwrawildlife.org/page/Minimum\\_Standards](http://www.nwrawildlife.org/page/Minimum_Standards).
- (2) All wild animals and wild birds undergoing rehabilitation shall be separated from pets, domestic animals, livestock, and non-native animals.
  - (3) All wild animals shall be kept in separate enclosures by species.
  - (4) Rehabilitation in a residence shall have designated, separate rooms used only for housing, treatment, and rehabilitation.
  - (5) Handling of animals shall be for treatment only.
- (h) Wild animals or wild birds showing symptoms of or believed to be infected with a zoonotic disease shall be euthanized or treated prior to release, based upon advice from a North Carolina licensed veterinarian.
- (i) Release of rehabilitated wild animals and wild birds.
- (1) All rehabilitated wild animals and wild birds shall be released as soon as the animal can be expected to survive in the wild or has attained full recovery from illness or injury, as determined by the rehabilitator or a North Carolina licensed veterinarian.
  - (2) Wild animals and wild birds may remain in a rehabilitation facility for no longer than 180 days. If a longer rehabilitation period is needed, the license holder shall notify the Commission in writing. The Commission shall consider extended rehabilitation on a case-by-case basis by evaluation, which may include the nature of the animal's condition and recommended treatment plan.
  - (3) Wild animals and wild birds shall not be released on property owned by another unless the rehabilitator has written permission dated within the last 12 months from the landowner.
  - (4) Wild animals or wild birds that are unfit shall be non-releasable and humanely euthanized. However, the Commission shall consider transfer of wild animals and wild birds on a case-by-case basis when written authorization is requested from the Commission. The wild animal or wild bird shall only be transferred to an individual or facility with a captivity license for holding as set forth in Rule .1403 of this Section when written authorization is obtained from the Commission.
- (j) Transfer of Animals.
- (1) Wild animals originating outside the State shall not be accepted for the purpose of rehabilitation unless written authorization is obtained from the Commission.
  - (2) Wild animals received for rehabilitation may not be exported outside the State for the purpose of rehabilitation or release after rehabilitation unless written authorization is obtained from both the Commission and the state where the wild animal will be exported to or released from.
- (3) It shall be unlawful for a license holder to sell any wild animal or wild bird being held under a license for rehabilitation.
  - (4) It shall be lawful for a license holder to transfer a wild animal or wild bird to another individual who possesses a valid captivity license for rehabilitation with the appropriate category for the given species or a wild bird to another individual with a valid permit for the given species.
- (k) White-tailed Deer Fawn.
- (1) Only individuals holding a captivity license for rehabilitation with the white-tailed deer fawn category may possess, rehabilitate, and release white-tailed deer fawns. To become licensed to rehabilitate white-tailed deer fawns, an individual shall meet all the requirements of the captivity license for rehabilitation.
  - (2) No white-tailed deer fawn shall be possessed until the applicant has constructed or acquired an enclosure for keeping fawn that complies with the standards set forth in Paragraph (g) of this Rule, and the facility has been verified by a representative of the Commission.
  - (3) Any white-tailed deer fawn held for more than 48 hours shall be permanently tagged using only Commission-provided tags.
  - (4) Orphaned white-tailed deer fawns shall be held for no longer than 90 days. Injured white-tailed deer fawns shall be held for no longer than 180 days or until December 31, whichever occurs first. If a longer rehabilitation period is needed, the license holder shall notify the Commission in writing. The Commission shall consider extended rehabilitation on a case-by-case basis. A fawn shall be considered an adult on December 31 of the birth year.
  - (5) Records of all white-tail deer fawn rehabilitation shall be maintained on a form, as set forth in Rule .1406 of this Section, and submitted to the Commission within 15 days of expiration of the license or prior to the request for reissuance of the license.
  - (6) Any individual or facility with the white-tailed deer category may not rehabilitate white-tailed fawn on properties licensed for farmed cervids.
- (l) Elk Calves.
- (1) Only individuals under a signed cooperative agreement with the Commission to meet conservation objectives shall be authorized to rehabilitate elk calves.
  - (2) Individuals in a cooperative agreement with the Commission shall obtain a captivity license for rehabilitation with the elk calf category. To become licensed to rehabilitate elk calves, an individual shall meet all the requirements of the captivity license for rehabilitation.

- (3) Any elk calves held for more than 48 hours shall be permanently tagged using only Commission-provided tags.
  - (4) Any individual or facility with the elk calf category may not rehabilitate elk calves on properties licensed for farmed cervids.
  - (5) No elk calf shall be possessed until the applicant has constructed or acquired an enclosure for keeping elk calves that complies with the standards set forth in Paragraph (g) of this Rule, and the facility has been verified by a representative of the Commission.
  - (6) Records of all elk calf rehabilitation shall be maintained on a form, as set forth in Rule .1406 of this Section, and submitted to the Commission within 15 days of expiration of the license or prior to the request for reissuance of the license
- (m) Black Bear Cubs.
- (1) Only individuals under a signed cooperative agreement with the Commission to meet conservation objectives shall be authorized to rehabilitate black bear cubs.
  - (2) Individuals in a cooperative agreement with the Commission shall obtain a captivity license for rehabilitation with the black bear category. To become licensed to rehabilitate black bear cubs, an individual shall meet all the requirements of the captivity license for rehabilitation.
  - (2) No black bear shall be possessed until the applicant has constructed or acquired an enclosure for keeping black bear that complies with the standards set forth in Paragraph (g) of this Rule, and the facility has been verified by a representative of the Commission.
- (n) Rabies Species.
- (1) Only individuals holding a captivity license for rehabilitation with the rabies species category may possess, rehabilitate, or release rabies species. To become licensed to rehabilitate rabies species, an individual shall meet all requirements of the general captivity license for rehabilitation and shall:
    - (A) have held an active rehabilitation license within or outside of the State for at least the previous three years and have rehabilitated during that time;
    - (B) certify 12 hours of rabies or rabies species-specific training or a combination thereof;
    - (C) certify up-to-date rabies immunization in accordance with current Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention at [www.CDC.gov](http://www.CDC.gov) for any rehabilitator, staff member or volunteer, who may come in contact with rabies species. Proof of immunization to demonstrate that the vaccine was administered shall be provided upon the request of the Commission or authorized representative and shall be kept at the license holder's facility;
  - (D) provide the name and contact information of a North Carolina licensed veterinarian with whom the rehabilitator has consulted and who agrees to provide necessary medical treatment to the rabies species. Contact information for the veterinarian shall be posted at the facility where the rabies species are being rehabilitated;
  - (E) certify notification to the appropriate animal control authority and local health department prior to making application to the Commission, to inform them of their anticipated activities and location. Contact information for these agencies shall be posted at the facility where the rabies species are being rehabilitated.
  - (F) have separate facilities from non-rabies species adequate for the species to be rehabilitated. Enclosures within the facility shall prevent escape of the animal and exposure to people, pets, livestock, and other captive or free-ranging wildlife. Exterior caging shall be locked and surrounded by double fencing or a solid wall barrier; and
  - (G) coordinate with appropriate local health department regarding euthanasia and testing of rabies species. A written protocol for testing shall be posted at the facility and made available for inspection by the Commission upon request.
  - (2) Except for bats, rehabilitation and release of rabies species is not authorized in counties where the United States Department of Agriculture-Animal and Plant Health Inspection Service Oral Rabies Vaccination (ORV) program is conducted, as specified by the United States Department of Agriculture-Animal and Plant Health Inspection Service at [www.aphis.usda.gov](http://www.aphis.usda.gov).
  - (3) Except as otherwise specified in this Section, rabies species shall not be removed from their containment except for treatment, release, maintenance of the enclosure, or euthanasia.
  - (4) Rehabilitated rabies species must be released in either the county where they were rehabilitated or the county where they were found.
  - (5) All rabies species shall be considered potentially infected with the rabies virus. If any human or domestic animal has been scratched,

bitten, or exposed to saliva, the fluid that surrounds the brain and spinal cord, or brain and spinal cord material from any rabies species, the license holder shall contact the local Health Department immediately to report the incident. The local Health Department may require euthanasia of the animal and submission of the brain for rabies testing. Rehabilitators shall abide by all requests made by authorized public health department personnel, animal control, or Commission personnel regarding disposition of the animal. No rabies species that has scratched or bitten a human or domestic animal or dies in captivity can be released or disposed of until the local Health Department investigates the situation to determine if testing is necessary.

- (6) Records of all rabies species rehabilitation shall be maintained on a form, as described in Rule .1406 of this Section, and submitted to the Commission within 15 days of expiration of the license or prior to the request for reissuance of the license.

*History Note: Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-274;  
Eff. January 1, 2020;  
Amended Eff. May 1, 2022.*

## **TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

### **CHAPTER 32 - NORTH CAROLINA MEDICAL BOARD**

#### **21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE**

(a) In order to obtain a physician license, an applicant shall:

- (1) submit a completed application, attesting under oath or affirmation that the information on the application is true and complete and authorizing the release to the Board of all information pertaining to the application;
- (2) submit a photograph that shows a front view of the applicant's face;
- (3) submit documentation of a legal name change, if applicable;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the U.S. or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status that the Board will use to verify applicant's ability to work lawfully in the U.S.;
- (5) submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education and received a medical degree.

However, the Board shall waive the 130-week requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS, or AOA approved specialty board within the past 10 years;

- (6) for an applicant who has graduated from a medical or osteopathic school approved by the LCME, the CACMS, or COCA, meet the requirements set forth in G.S. 90-9.1;
- (7) for an applicant graduating from a medical school not approved by the LCME, meet the requirements set forth in G.S. 90-9.2;
- (8) provide proof of passage of an examination testing medical knowledge. In addition to the examinations set forth in G.S. 90-10.1 the Board accepts the following examinations (or their successors) for licensure:
  - (A) COMLEX;
  - (B) MCCQE; and
  - (C) Current certification or current recertification by an ABMS, CCFP, FRCP, FRCS, AOA, ABOMS, or other Board approved speciality board;
- (9) submit proof that the applicant has completed graduate medical education as required by G.S. 90-9.1 or 90-9.2, as follows:
  - (A) A graduate of a medical school approved by LCME, CACMS, or COCA shall have completed at least one year of graduate medical education approved by ACGME, CFPC, RCPSC, or AOA;
  - (B) A graduate of a medical school not approved by LCME shall have completed two years of graduate medical education approved by ACGME, CFPC, RCPSC, or AOA;
  - (C) An applicant may satisfy the graduate medical education requirements of Parts (A) or (B) of this Subparagraph by showing proof of current certification by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS, or AOA;
- (10) submit a FCVS profile:
  - (A) If the applicant is a graduate of a medical school approved by LCME, CACMS, or COCA, and the applicant previously has completed a FCVS profile; or
  - (B) If the applicant is a graduate of a medical school other than those approved by LCME, COCA, or CACMS;
- (11) if a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS, furnish an original ECFMG certification status report of a currently valid



- certification of the ECFMG. The ECFMG certification status report requirement shall be waived if: the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required);
- (12) submit an AMA Physician Profile and, if the applicant is an osteopathic physician, also submit an AOA Physician Profile;
- (13) if applying on the basis of the USMLE, submit:
- (A) a transcript from the FSMB showing a score on USMLE Step 1, Step 2, and Step 3; and
  - (B) proof that the applicant has passed each step within three attempts. However, the Board shall waive the three-attempt requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS, AOA, American Board of Oral Maxillofacial Surgery ("ABOMS") approved specialty board within the past 10 years;
- (14) if applying on the basis of COMLEX, submit:
- (A) a transcript from the NBOME showing a score on COMLEX Level 1, Level 2 (cognitive evaluation), and Level 3; and
  - (B) proof that the applicant has passed COMLEX within three attempts. However, the Board shall waive the three-attempt requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS, AOA, or ABOMS approved specialty board within the past 10 years;
- (15) if applying on the basis of any other board-approved examination, submit a transcript showing a passing score;
- (16) submit two completed fingerprint record cards;
- (17) submit a signed consent allowing a search of local, state, and national files for any criminal record;
- (18) provide two original references from persons with no family or marital relationship to the applicant. These references shall be:
- (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
  - (B) on forms supplied by the Board;
  - (C) dated within six months of the submission of the application; and
  - (D) bearing the original signature of the writer;
- (19) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
- (20) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past 10 years taken and passed either:
    - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination, NBOME, USMLE, COMLEX, or MCCQE or their successors);
    - (B) SPEX (with a score of 75 or higher); or
    - (C) COMVEX (with a score of 75 or higher);
  - (2) within the past 10 years:
    - (A) obtained certification or recertification or CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS, AOA or American Board of Maxillofacial Surgery;
    - (B) met requirements for ABMS MOC (maintenance of certification) or AOA OCC (Osteopathic continuous certification);
  - (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC, or AOA; or
  - (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.
- (c) All reports must be submitted directly to the Board from the primary source.
- (d) An applicant shall appear in person for an interview with the Board or its agent, if the Board determines it needs more information to evaluate the applicant based on the information provided by the applicant and the Board's concerns.
- (e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.
- History note: Authority G.S. 90-5.1(a)(3); 90-8.1; 90-9.1; 90-9.2; 90-13.1;*  
*Eff. August 1, 2010;*  
*Amended Eff. December 1, 2013; January 1, 2012; November 1, 2011; October 1, 2011;*  
*Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;*  
*Amended Eff. May 1, 2022; July 1, 2019.*

**21 NCAC 32B .1350 REINSTATEMENT OF PHYSICIAN LICENSE**

(a) "Reinstatement" is for a physician who has held a North Carolina license, but whose license either has been inactive for more than one year, or whose license became inactive as a result

of disciplinary action (revocation or suspension) taken by the Board. It also applies to a physician who has surrendered a license prior to charges being filed by the Board.

(b) All applicants for reinstatement shall:

- (1) submit a completed application, attesting under oath or affirmation that information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit a photograph that shows a front view of the applicant's face;
- (3) submit documentation of a legal name change, if applicable;
- (4) supply a copy of the applicant's birth certificate if the applicant was born in the U.S. or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant shall provide information about the applicant's immigration status that the Board shall use to verify the applicant's legal presence in the U.S. Applicants who are not physically present in the U.S. and who do not plan to practice by being physically present in the U.S. shall submit a written statement to that effect;
- (5) furnish an original ECFMG certification status report of a currently valid certification of the ECFMG if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS. The ECFMG certification status report requirement shall be waived if: the applicant has passed the ECFMG examination and completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required);
- (6) submit documentation of CME obtained in the last three years;
- (7) submit two completed fingerprint cards;
- (8) submit a signed consent allowing a search of local, state, and national files to disclose any criminal record;
- (9) provide two original references from persons with no family or marital relationship to the applicant. These references shall be:
  - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
  - (B) on forms supplied by the Board;
  - (C) dated within six months of submission of the application; and
  - (D) bearing the original signature of the author;
- (10) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and

- (11) upon request, provide any additional information the Board deems necessary to evaluate the applicant's qualifications.

(c) In addition to the requirements of Paragraph (b) of this Rule, the applicant shall submit proof that the applicant has:

- (1) within the past 10 years taken and passed either:
  - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination, NBOME, USMLE, COMLEX, or MCCQE or their successors);
  - (B) SPEX (with a score of 75 or higher); or
  - (C) COMLEX (with a score of 75 or higher);
- (2) within the past ten years:
  - (A) obtained certification or recertification of CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS, AOA, or American Board of Oral Maxillofacial Surgery;
  - (B) met requirements for ABMS MOC (maintenance of certification) or AOA OCC (Osteopathic continuous certification);
- (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
- (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.

(d) All reports shall be submitted directly to the Board from the primary source.

(e) An applicant shall be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character if the Board determines it needs more information to evaluate the applicant based on the information provided by the applicant and the Board's concerns.

(f) An application must be complete within one year of submission. If not, the applicant shall be charged another application fee plus the cost of another criminal background check.

(g) Notwithstanding the provisions of this Rule, the licensure requirements established by rule at the time the applicant first received his or her equivalent North Carolina license shall apply. Information about these Rules is available from the Board.

*History Note: Authority G.S. 90-5.1(a)(3); 90-8.1; 90-9.1; 90-10.1; 90-13.1;*

*Eff. August 1, 2010;*

*Amended Eff. September 1, 2014; November 1, 2013; November 1, 2011;*

*Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;*

*Amended Eff. May 1, 2022; July 1, 2019.*

## **21 NCAC 32B .1402 APPLICATION FOR RESIDENT'S TRAINING LICENSE**

(a) In order to obtain a Resident's Training License, an applicant shall:

- (1) submit a completed application, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) submit a photograph that shows a front view of the applicant's face;
- (4) submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education;
- (5) furnish an original ECFMG certification status report of a currently valid ECFMG certification if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS. The ECFMG certification status report requirement shall be waived if the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (the applicant shall provide an ECFMG score transcript from the ECFMG);
- (6) submit an appointment letter from the program director of the GME program or his or her appointed agent verifying the applicant's appointment and commencement date;
- (7) submit two completed fingerprint record cards;
- (8) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
- (9) pay a non-refundable fee pursuant to G.S. 90-13.1(b), plus the cost of a criminal background check;
- (10) provide proof that the applicant has taken and passed within three attempts:
  - (A) COMLEX Level 1, COMLEX Level 2 (cognitive evaluation) and, if taken, COMLEX Level 3; or
  - (B) USMLE Step 1, USMLE Step 2 (Clinical Knowledge) and, if taken USMLE Step 3; or
  - (C) MCCQE Part 1 and, if taken, MCCQE Pat 2;
- (11) In the event any of the above required information should indicate a concern about the applicant's qualifications, upon request, the applicant shall supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(b) In the event any of the above required information should indicate a concern about the applicant's qualifications, an applicant shall be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character, if the Board needs more information to complete the application.

(c) If the applicant previously held a North Carolina residency training license, the licensure requirements established by rule at

the time the applicant first received his or her North Carolina residency training license shall apply. Information about these Rules is available from the Board.

*History Note: Authority G.S. 90-8.1; 90-12.01; 90-13.1; 90-14(a); Eff. August 1, 2010; Amended Eff. January 1, 2016; September 1, 2014; November 1, 2013; August 1, 2012; November 1, 2011; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016; Amended Eff. May 1, 2022.*

## **21 NCAC 32S .0213 PHYSICIAN SUPERVISION OF PHYSICIAN ASSISTANTS**

(a) A physician wishing to serve as a primary supervising physician shall exercise supervision of the physician assistant in accordance with rules adopted by the Board.

(b) A physician assistant may perform medical acts, tasks, or functions only under the supervision of a physician. Supervision shall be continuous but, except as otherwise provided in the rules of this Subchapter, shall not be construed as requiring the physical presence of the supervising physician at the time and place that the services are rendered.

(c) Each team of physician(s) and physician assistant(s) shall ensure:

- (1) the physician assistant's scope of practice is identified;
- (2) delegation of medical tasks is appropriate to the skills of the supervising physician(s) as well as the physician assistant's level of competence;
- (3) the relationship of, and access to, each supervising physician is defined; and
- (4) a process for evaluation of the physician assistant's performance is established.

(d) Each supervising physician and physician assistant shall sign a statement, as defined in Rule .0201(9) of this Subchapter, that describes the supervisory arrangements in all settings. The physician assistant shall maintain written prescribing instructions at each site. This statement shall be kept on file at all practice sites, and shall be available upon request by the Board.

(e) A primary supervising physician and a physician assistant in a new practice arrangement shall meet monthly for the first six months to discuss practice relevant clinical issues and quality improvement measures. Thereafter, the primary supervising physician and the physician assistant shall meet at least once every six months. A written record of these meetings shall be signed and dated by both the supervising physician and the physician assistant, and shall be available upon request by the Board. The written record shall include a description of the relevant clinical issues discussed and the quality improvement measures taken.

(f) Physician assistants enrolled and participating in a postgraduate training program shall designate on their intent to practice form as required by Rule .0203 of this Subchapter a single physician as their primary supervising physician as determined by the postgraduate training program. For purposes of this Rule, a postgraduate training program shall mean a professional development program of at least 12 months sponsored or co-sponsored by a licensed hospital and healthcare system in which

the participants rotate through at least three or more distinct medical specialties. As the participants rotate through the program's various specialties, all other supervising physicians shall be designated as Back-Up Supervising Physicians.

*History Note: Authority G.S. 90-9.3; 90-18(c)(13); 90-18.1; Eff. September 1, 2009;  
Amended Eff. May 1, 2015;  
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;  
Amended Eff. May 1, 2022.*

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## CHAPTER 46 – BOARD OF PHARMACY

### 21 NCAC 46 .1503 EXPERIENCE IN PHARMACY AND PHARMACY INTERNSHIP

(a) An applicant for license must show that the applicant has received 1500 hours of practical experience under the supervision of a licensed pharmacist which has been acquired while enrolled in a school of pharmacy accredited by the Accreditation Council for Pharmacy Education.

(b) All practical pharmacy experience gained within the State of North Carolina must be acquired as follows:

- (1) All practical pharmacy experience must be validated through registration in the internship program administered by the Board. A person does not receive credit for any practical experience unless and until that person is registered with the Board as a pharmacy intern.
- (2) Practical experience shall be credited only when it has been obtained in a location holding a pharmacy permit, or a location approved by the Board for practical experience, and only after the pharmacy intern notifies the Board of the location of the practical experience. If the pharmacy intern's location of employment changes, the pharmacy intern must notify the Board of the change before commencing an internship at the new location.
- (3) The person acquiring practical experience shall at all times comply with the Board's rules and the laws governing the practice of pharmacy and the distribution of drugs. Failure of the pharmacist intern to do so is grounds to disqualify the experience from counting toward the minimum requirements.
- (4) The Board shall accept hours of experience certified by the school from which the applicant has graduated, provided that the applicant has satisfied Subparagraphs (1)-(3) of this Paragraph. The Board shall not allow credit for claims of practical experience required under the pharmacy laws, unless such claims can be corroborated by records on file in the Board's office showing the beginning and the ending of the practical experience claimed as supplied by the applicant during this training period.

(c) A person is eligible to register or renew and be employed as a pharmacy intern only if, and so long as, the person is:

- (1) Currently enrolled in a pharmacy school accredited by the Accreditation Council for Pharmacy Education. In order to qualify as "enrolled" in a pharmacy school, the student must be attending pharmacy school at the time, or on a break between academic terms;
- (2) A graduate of a foreign school of pharmacy who has successfully completed the Foreign Pharmacy Graduate Equivalency Examination offered by the National Association of Boards of Pharmacy and the Test of English as a Foreign Language and who is acquiring the practical experience required for licensure;
- (3) A pharmacist licensed in another state who is gaining practical experience required for a license by reciprocity under Rule .1602 of this Chapter;
- (4) A pharmacist with an inactive North Carolina license who is gaining practical experience required for reinstatement of a license under Rule .1612 of this Chapter;
- (5) A graduate of a school of pharmacy who has not been licensed in any State, who has not been denied a license in any State, who has an active application for licensure to practice pharmacy in North Carolina and who has met all requirements for licensure other than taking and passing the North American Pharmacist Licensure Examination and the Multistate Pharmacy Jurisprudence Examination, and who is gaining practical experience to prepare for the examination in order to achieve licensure.

(d) In order to register or renew as a pharmacy intern, an applicant must submit proof of eligibility under Paragraph (c) of this Rule. The applicant further must provide releases for the Board to verify the applicant's eligibility, including confirming enrollment in or graduation from pharmacy school.

(e) Pharmacy intern registrations are valid until the September 1 immediately following registration. If the person remains eligible for registration as a pharmacy intern, the registration shall be renewed between August 1 and September 1 of the year in which the registration expires. If the registration expires for a pharmacy intern, that person is not eligible to work as a pharmacy intern in the State of North Carolina unless and until the registration is reinstated after a new application.

(f) If a pharmacy intern ceases to be eligible to be registered and employed as a pharmacy intern under Paragraph (c) of this Rule, that person must immediately cease working as a pharmacy intern and must notify the Board within five calendar days of a change in status and request that the person's registration be made inactive.

(g) The Board may accept practical experience gained in another state pursuant to internship registration in this or another state if the Board is satisfied that such experience is equivalent.

(h) A registered pharmacy intern working under a pharmacist preceptor or supervising pharmacist may, while under supervision of that pharmacist, perform all acts constituting the practice of

pharmacy. Because the pharmacy intern may perform all acts constituting the practice of pharmacy under supervision under this provision, doing so without being registered with the Board is the unlicensed practice of pharmacy.

(i) A supervising pharmacist, pharmacist preceptor, or pharmacist-manager who causes or permits a pharmacy intern to violate any laws, rules, or regulations applicable to the practice of pharmacy or the distribution of drugs forfeits his or her right to supervise pharmacy interns and is subject to additional disciplinary action. A supervising pharmacist, pharmacist preceptor, or pharmacist-manager who violates any laws, rules, or regulations applicable to the supervision of pharmacy interns forfeits his or her right to supervise pharmacy interns and is subject to additional disciplinary action. This includes, but is not limited to, making false representations or withholding material information about the pharmacy intern's practical experience or employing a pharmacy intern who is not registered with the Board. A pharmacist who has been found in violation of laws, rules, or regulations governing the practice of pharmacy and the distribution of drugs cannot serve as a supervising pharmacist or pharmacist preceptor without the approval by the Board.

(j) The Board may consider any of the acts set forth in G.S. 90-85.38(a) that are committed by a pharmacy intern in considering whether to grant that person a license to practice pharmacy or what conditions are appropriate to ensure that the person can practice pharmacy safely.

(k) The practical experience hours gained prior to the effective date of any amendment to this Rule are governed by the requirements of this Rule in effect at the time the hours were obtained.

*History Note: Authority G.S. 90-85.6; 90-85.14; 90-85.15; 90-85.38;  
Eff. April 1, 1983;  
Amended Eff. March 1, 2004; September 1, 1993; April 1, 1992;  
October 1, 1990; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. October 3, 2017;  
Amended Eff. May 1, 2022.*

#### **21 NCAC 46 .1606 NORTH CAROLINA-SPECIFIC EDUCATION FOR PERMIT APPLICANTS**

Prior to issuance of any original pharmacy permit or device and medical equipment permit, the pharmacist-manager for the applicant pharmacy or the person in charge of the facility applying for the device and medical equipment permit shall complete an educational module on the North Carolina Pharmacy Practice Act and the Board's regulations that govern the operation of permits. That educational module is available in the on-line permit application section of the Board's Licensure Gateway. The pharmacist-manager or person in charge must personally complete the educational module and may not delegate this responsibility to any other person.

*History Note: Authority G.S. 90-85.6; 90-85.21; 90-85.21A;  
90-85.22;  
Eff. April 1, 1994;  
Amended Eff. April 1, 2003; April 1, 1999; September 1, 1995;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. October 3, 2017;  
Amended Eff. May 1, 2022.*

#### **21 NCAC 46 .1607 OUT-OF-STATE PHARMACIES**

(a) In order to protect the public health and safety and implement G.S. 90-85.21A, the following provisions apply to out-of-state pharmacies that ship, mail, or deliver in any manner a dispensed legend drug, device, or medical equipment into this State.

(b) An out-of-state pharmacy may not ship, mail, or deliver in any manner even a single dispensed legend drug, device, or piece of medical equipment into this State until it receives a permit from the Board. All unpermitted dispensing must be disclosed on any permit application, and any permit applicant must update any application within 24 hours of any dispensing into this State that occurs while a permit application is pending. The Board may deny a permit based on that dispensing or on a failure to disclose it.

(c) In addition to the requirements contained in G.S. 85-21A, these pharmacies shall:

- (1) supply all information requested by the Board in carrying out the Board's responsibilities under the statutes and rules pertaining to out-of-state pharmacies;
- (2) during the pharmacy's regular hours of operation but not less than six days per week, for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients and pharmacists at the pharmacy who have access to the patient's records. This toll-free number must be disclosed on the label for each dispensed drug, device, or piece of medical equipment;
- (3) comply with all USP and FDA requirements regarding the storage, packaging, and shipping of drugs, devices, and medical equipment;
- (4) develop policies governing:
  - (A) normal delivery protocols and times;
  - (B) the procedure to be followed if the patient's drug, device, or medical equipment is not available at the out-of-state pharmacy, or if delivery will be delayed beyond the normal delivery time;
  - (C) the procedure to be followed upon receipt of a prescription for a condition that requires treatment before the drug, device, or medical equipment would be delivered in the normal delivery time, which shall include a procedure for delivery of the drug, device, or medical equipment to the patient from the out-of-state pharmacy at the earliest possible time (such as courier delivery), or an alternative that assures the patient the opportunity to obtain the drug, device, or medical equipment at the earliest possible time; and

- (D) the procedure to be followed when the out-of-state pharmacy is advised that the patient's drug, device, or medical equipment has not been received within the normal delivery time and that the patient is out of the drug, device, or medical equipment and requires interim dosage until the pharmacy can provide the drug, device, or medical equipment;
- (5) disclose the location, names, and titles, of all officers and direct and indirect owners of the pharmacy. Disclose the names and license numbers of all pharmacists dispensing drugs, devices, or medical equipment to an ultimate user in this State, the names and, if available, license or registration numbers of all pharmacy personnel employed by the out-of-state pharmacy who assist pharmacists in dispensing. The pharmacist-manager for the out-of-state permit issued by this Board must be the same person as the pharmacist-manager (whether called a pharmacist-manager, a person-in-charge or otherwise) of the pharmacy on the permit issued by the pharmacy's home state. A report containing this information shall be made on an annual basis and within 30 days of each change of any pharmacist-manager, officer, or owner (whether direct or indirect) of the pharmacy. A new permit shall be required under the circumstances set out in Rule .1603 of this Section, and a new permit must be secured before any legend drugs, devices, or medical equipment may be dispensed into the State of North Carolina following any of the enumerated changes in circumstances. The existing permit becomes void upon one of the events in Rule .1603, and any dispensing into the State of North Carolina following one of those events is unlawful and grounds for denial of a new permit;
- (6) submit evidence of possession of a valid license, permit, or registration as a pharmacy in compliance with the laws of the state in which the pharmacy is located;
- (7) designate a registered office and registered agent in North Carolina for service of process pursuant to Article 4 of Chapter 55D of the North Carolina General Statutes. The Board may serve or deliver any notice or other document provided for under the Pharmacy Practice Act or these Rules on that registered agent. The Board may further serve or deliver any notice or other document provided for under the Pharmacy Practice Act or these Rules on the Secretary of State when the Secretary of State becomes an agent of the entity pursuant to Article 4 of Chapter 55D of the North Carolina General Statutes; and
- (8) notify the Board within five days of receipt of any order or decision by a Board of Pharmacy or other state or federal agency imposing discipline of any sort on the pharmacy, or receipt of any warning letter from the Food and Drug Administration.
- (d) The facilities and records of an out-of-state pharmacy shall be subject to inspection by the Board. The Board also may require submission of inspection reports by the licensing entity of the state in which the pharmacy is located or records transmitted by the pharmacy to the Board offices.
- (e) Any person who ships, mails, or delivers prescription drugs to North Carolina residents from more than one out-of-state pharmacy location shall register each pharmacy separately.
- (f) An out-of-state permit holder may be disciplined as set forth in the Pharmacy Practice Act. The suspension or revocation of the pharmacy's home state permit will result in the immediate suspension or revocation of the out-of-state permit issued by this Board.
- (g) An out-of-state pharmacy permit shall expire on December 31 of each year.
- (h) The fees provided for in G.S. 90-85.21A as maximum fees which the Board is entitled to charge and collect are hereby established as the fees for each original permit and for annual renewal of each permit.

*History Note: Authority G.S. 90-85.6; 90-85.15A; 90-85.21A; 90-85.22; 90-85.26; 90-85.30; 90-85.32;*  
*Eff. July 1, 1994;*  
*Amended Eff. March 1, 2006;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;*  
*Amended Eff. May 1, 2022.*

**21 NCAC 46 .1613 EXTENSION PERIOD FOR CERTAIN MEMBERS OF THE ARMED FORCES**

- (a) Definitions:
  - (1) "Eligible licensee" means a pharmacist who holds a license in good standing from the Board of Pharmacy, who serves the armed forces of the United States, and who is eligible for an extension of time in which to file a tax return pursuant to G.S. 105-249.2. "Eligible licensee" includes a pharmacist who holds a Clinical Pharmacist Practitioner credential or who is an immunizing pharmacist.
  - (2) "Eligible registrant" means a pharmacy intern, pharmacy technician, dispensing physician, dispensing nurse practitioner or dispensing physician assistant who holds a registration in good standing from the Board of Pharmacy, who serves the armed forces of the United States, and who is eligible for an extension of time in which to file a tax return pursuant to G.S. 105-249.2.
  - (3) "Extension period" means the time period specified in 26 U.S.C. 7508.

- (4) "Good standing" means a license or registration that is not suspended, revoked, or subject to a current disciplinary order.
- (b) Extension of time to pay license or registration renewal fees and waiver of continuing education requirements:
- (1) An eligible licensee or registrant shall notify the Board of eligibility for the extension period before his or her current license or registration expires. Upon such notification, the Board shall maintain the license or registration in active status through the extension period.
  - (2) If an eligible licensee or registrant fails to notify the Board of eligibility for the extension period before his or her current license or registration expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee or registrant was an eligible licensee or registrant on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
  - (3) Notwithstanding 21 NCAC 46 .1612(a) and .3301(a), an eligible licensee or registrant who submits a renewal application and pays the renewal fee required by the Board within the extension period shall not be deemed to hold a lapsed license or registration subject to reinstatement fees.
  - (4) Notwithstanding 21 NCAC 46 .2201, .3101(d) and .2507(d), an eligible licensee may renew his or her license within the extension period despite failing to complete the specified continuing education requirements.
  - (5) A licensee or registrant shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.

*History Note:* Authority G.S. 90-18.1; 90-18.2; 90-85.6; 90-85.15A; 90-85.15B; 90-85.17; 90-85.21(b); 90-85.24; 90-85.26A; 93B-15;  
*Eff. April 1, 2010;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017;*  
*Amended Eff. May 1, 2022.*

**21 NCAC 46 .1615 E-PROFILE NUMBER  
REQUIRED FOR LICENSE, PERMIT, OR  
REGISTRATION**

- (a) As part of the application for issuance or renewal of any in-state or out-of-state pharmacy permit, device and medical equipment permit, license to practice pharmacy, pharmacy intern registration, or pharmacy technician registration issued by the Board, the permittee, licensee, or registrant must report an e-Profile number to the Board.
- (b) An applicant, permittee, licensee, or registrant may obtain an e-Profile number at no cost by contacting the National Association of Boards of Pharmacy by phone at (847) 391-4406; by mail at 1600 Feehanville Drive, Mount Prospect, Illinois 60056; or electronically at [www.nabp.pharmacy](http://www.nabp.pharmacy).

*History Note:* Authority G.S. 90-85.6; 90-85.14; 90-85.15; 90-85.15A; 90-85.17; 90-85.20; 90-85.21; 90-85.21A; 90-85.22;  
*Eff. May 1, 2017;*  
*Amended Eff. May 1, 2022.*

**21 NCAC 46 .2515 REMOTE WORK BY  
PHARMACY PERSONNEL**

- (a) Pharmacy personnel may perform pharmacy practice remotely with respect to drugs, devices, or medical equipment dispensed by the permitted pharmacy location by which they are employed. Pharmacy personnel may not engage in physical acts in the dispensing process in remote locations outside the permitted pharmacy location. The pharmacist-manager must ensure that pharmacy personnel are able to perform at the same level of competence, attention, and proficiency as if the personnel were physically present in the pharmacy, including having secure access to the pharmacy's information system, and that all applicable state and federal laws, rules, and regulations are followed.
- (b) Out-of-state permit holders may permit remote pharmacy practice by their own employees with respect to drugs, devices, or medical equipment dispensed by those pharmacy locations into the State of North Carolina only to the extent permitted by the laws of the states in which they are located.
- (c) This Rule does not include services provided by someone who is not an employee of the permitted pharmacy location that is dispensing the drug, device, or medical equipment. Any such remote medication order entry services are governed by Rule .1816 of this Chapter.

*History Note:* Authority G.S. 90-85.6; 90-85.21; 90-85.21A; 90-85.26; 90-85.32; 90-85.34;  
*Eff. May 1, 2022.*

*This Section contains information for the meeting of the Rules Review Commission June 16, 2022 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS****Appointed by Senate**

Jeanette Doran (Chair)  
Robert A. Bryan, Jr. (2<sup>nd</sup> Vice Chair)  
Margaret Currin  
Jeff Hyde  
Robert A. Rucho

**Appointed by House**

Andrew P. Atkins (1st Vice Chair)  
Wayne R. Boyles, III  
Barbara A. Jackson  
Randy Overton  
Paul Powell

**COMMISSION COUNSEL**

Brian Liebman 984-236-1948  
Lawrence Duke 984-236-1938  
William W. Peaslee 984-236-1939

**RULES REVIEW COMMISSION MEETING DATES**

July 21, 2022 September 15, 2022  
August 18, 2022 October 20, 2022

**AGENDA****RULES REVIEW COMMISSION**

**Thursday, June 16, 2022, 9:00 A.M.**

**1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Department of Natural and Cultural Resources - 07 NCAC 02H .0306 (Peaslee)
  - B. Environmental Management Commission - 15A NCAC 02B .0208, .0212, .0214, .0215, .0216, .0218, (Duke)
  - C. Environmental Management Commission - 15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 (Liebman)
  - D. Marine Fisheries Commission - 15A NCAC 03O .0114, .0209 (Liebman)
  - E. Coastal Resources Commission - 15A NCAC 07H .1701, .1702, .1703, .1704, .1705, .1901, .1902, .1903, .1904, .1905, .2501, .2502, .2503, .2504, .2505 (Duke)
  - F. Wildlife Resources Commission - 15A NCAC 10D .0103, .0209, .0226, .0229, .0230, .0239, .0240, .0243, .0260, .0276 (Duke)
  - G. State Board of Education - 16 NCAC 06E .0204 (Liebman)
- IV. Review of Filings (Permanent Rules) for rules filed between April 21, 2022 through May 20, 2022
  - Pesticide Board (Liebman)
  - Board of Agriculture (Peaslee)
  - Medical Care Commission (Liebman)
  - Criminal Justice Education and Training Standards Commission (Liebman)
  - Private Protective Services Board (Liebman)
  - Environmental Management Commission (Duke)



- Coastal Resources Commission (Duke)
- Commission for Public Health (Liebman)
- State Board of Education (Liebman)
- Board of Chiropractic Examiners (Liebman)
- Board of Dental Examiners (Liebman)
- Medical Board (Liebman)
- Board of Pharmacy (Liebman)
- Board of Licensed Clinical Mental Health Counselors (Liebman)
- Appraisal Board (Duke)
- Addictions Specialist Professional Practice Board (Duke)

- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- VII. Commission Business
- Next meeting: July 21, 2022

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**Commission Review  
Log of Permanent Rule Filings  
April 21, 2022 through May 20, 2022**

**PESTICIDE BOARD**

The rules in Chapter 9 are from the Food and Drug Protection Division of the Department of Agriculture and Consumer Services.

The rules in Subchapter 9L are from the N.C. Pesticide Board and include organizational rules (.0100); registration (.0300); samples and submissions (.0400); pesticide licenses (.0500); pesticide and pesticide container disposal (.0600); declaration of pests and restrictions on their control (.0700); bulk distribution of pesticides (.0800); aerial application of pesticides (.1000); private pesticide applicator certification (.1100); arsenic trioxide (.1200); availability of restricted use pesticides (.1300); ground application of pesticides (.1400); worker protection standards for agricultural pesticides (.1800); pesticide storage (.1900); chemigation (any process whereby pesticides are applied to land, crops, or plants using an irrigation system) (.2000); hearing rules of the North Carolina pesticide board (.2100); and interim protection measures for the Carolina heelsplitter mussel (.2200).

<u>Prohibited Acts</u>	02	NCAC	09L	.0530
Adopt*				
<u>Prohibited Acts</u>	02	NCAC	09L	.1112
Adopt*				

**AGRICULTURE, BOARD OF**

The rules in Subchapter 52J are enforced by the animal welfare section and include rules about record keeping and licensing (.0100); facilities and operating standards (.0200); transportation standards (.0300); euthanasia standards (.0400); euthanasia by injection (.0500); euthanasia by carbon monoxide (.0600); extraordinary circumstances (.0700); and policy and procedure manual (.0800).

<u>Records; Animal Shelters, Etc.</u>	02	NCAC	52J	.0101
Readopt with Changes*				
<u>Records; Boarding Kennels</u>	02	NCAC	52J	.0102
Readopt with Changes*				
<u>Inspection of Records</u>	02	NCAC	52J	.0103

Readopt with Changes*				
<u>Definitions</u>	02	NCAC	52J	.0104
Readopt with Changes*				
<u>Licenses and Registrations</u>	02	NCAC	52J	.0105
<u>Adopt*</u>				
<u>General</u>	02	NCAC	52J	.0201
Readopt with Changes*				
<u>Indoor Facilities</u>	02	NCAC	52J	.0202
Readopt with Changes*				
<u>Outdoor Facilities</u>	02	NCAC	52J	.0203
Readopt with Changes*				
<u>Primary Enclosures</u>	02	NCAC	52J	.0204
Readopt with Changes*				
<u>Feeding</u>	02	NCAC	52J	.0205
Readopt with Changes*				
<u>Watering</u>	02	NCAC	52J	.0206
Readopt with Changes*				
<u>Sanitation</u>	02	NCAC	52J	.0207
Readopt with Changes*				
<u>Employees</u>	02	NCAC	52J	.0208
Readopt with Changes*				
<u>Classification and Separation</u>	02	NCAC	52J	.0209
Readopt with Changes*				
<u>Veterinary Care</u>	02	NCAC	52J	.0210
Readopt with Changes*				
<u>Vehicles</u>	02	NCAC	52J	.0301
Readopt with Changes*				
<u>Primary Enclosures Used in Transporting Dogs and Cats</u>	02	NCAC	52J	.0302
Readopt with Changes*				
<u>Food and Water Requirements</u>	02	NCAC	52J	.0303
Readopt with Changes*				
<u>Care in Transit</u>	02	NCAC	52J	.0304
Readopt with Changes*				
<u>Adoption by Reference</u>	02	NCAC	52J	.0401
Readopt with Changes*				
<u>Authorized Persons</u>	02	NCAC	52J	.0402
Readopt with Changes*				
<u>Definitions</u>	02	NCAC	52J	.0403
Readopt with Changes*				
<u>Certification Requirements for Euthanasia Technicians</u>	02	NCAC	52J	.0404
Readopt without Changes*				
<u>Certification Standards</u>	02	NCAC	52J	.0405
Readopt without Changes*				
<u>Application Requirements</u>	02	NCAC	52J	.0406
Readopt with Changes*				
<u>Training and Examinations</u>	02	NCAC	52J	.0407
Readopt with Changes*				
<u>Trainers</u>	02	NCAC	52J	.0408
Readopt with Changes*				
<u>Probationary Euthanasia Technicians</u>	02	NCAC	52J	.0409
Readopt/Repeal*				
<u>Exam Required</u>	02	NCAC	52J	.0410

Readopt with Changes*				
<u>New Application</u>	02	NCAC	52J	.0411
Readopt with Changes*				
<u>Issuance of Certification</u>	02	NCAC	52J	.0412
Readopt with Changes*				
<u>Length of Certification</u>	02	NCAC	52J	.0413
Readopt with Changes*				
<u>Termination of Employment</u>	02	NCAC	52J	.0414
Readopt with Changes*				
<u>Notice of Termination</u>	02	NCAC	52J	.0415
Readopt with Changes*				
<u>Recertification</u>	02	NCAC	52J	.0416
Readopt with Changes*				
<u>Certification Renewal</u>	02	NCAC	52J	.0417
Readopt with Changes*				
<u>Duties</u>	02	NCAC	52J	.0418
Readopt with Changes*				
<u>Grounds for Discipline - Certified Euthanasia Technicians</u>	02	NCAC	52J	.0419
Readopt with Changes*				
<u>Intracardiac Injection</u>	02	NCAC	52J	.0501
Readopt with Changes*				
<u>Methods of Euthanasia Permitted Under Extraordinary Circu...</u>	02	NCAC	52J	.0701
Readopt without Changes*				
<u>Gunshot or Other Methods</u>	02	NCAC	52J	.0702
Readopt with Changes*				
<u>Methods and Standards</u>	02	NCAC	52J	.0703
Readopt with Changes*				
<u>Technician Not Required</u>	02	NCAC	52J	.0704
Readopt with Changes*				
<u>Reports</u>	02	NCAC	52J	.0705
Readopt with Changes*				
<u>Manual Required</u>	02	NCAC	52J	.0801
Readopt with Changes*				
<u>Contents</u>	02	NCAC	52J	.0802
Readopt with Changes*				
<u>Additional Contents</u>	02	NCAC	52J	.0803
Readopt with Changes*				
<u>Eligible Expenses</u>	02	NCAC	52J	.0901
Readopt without Changes*				
<u>Application Guidelines</u>	02	NCAC	52J	.0902
Readopt without Changes*				

## **MEDICAL CARE COMMISSION**

The rules in Chapter 13 are from the NC Medical Care Commission.

The rules in Subchapter 13B set standards for the licensing of hospitals including supplemental rules for the licensure of skilled intermediate, adult care home beds in a hospital (.1900); specialized rehabilitative and rehabilitative services (.2000); general information (.3000); procedure (.3100); general requirements (.3200); patients' bill of rights (.3300); supplemental rules for the licensure of critical care hospitals (.3400); grievance and management (.3500); management and administration of operations (.3600); medical staff (.3700); nursing services (.3800); medical record services (.3900); outpatient services (.4000); emergency services (.4100); special care units (.4200); maternal-neonatal services (.4300);

respiratory care services (.4400); pharmacy services and medication administration (.4500); surgical and anesthesia services (.4600); nutrition and dietetic services (.4700); diagnostic imaging (.4800); laboratory services and pathology (.4900); physical rehabilitation services (.5000); infection control (.5100); psychiatric services (.5200); nursing and adult care beds (.5300); comprehensive inpatient rehabilitation (.5400); supplemental rules for hospitals providing living organ donation transplant services (.5500); physical plant (.6000); general requirements (.6100); and construction requirements (.6200).

<u>Nurse Executive</u> Readopt with Changes*	10A	NCAC	13B	.3801
<u>Preservation of Medical Records</u> Readopt with Changes*	10A	NCAC	13B	.3903
<u>Provision of Emergency Services</u> Readopt with Changes*	10A	NCAC	13B	.4103
<u>Medical Director</u> Readopt with Changes*	10A	NCAC	13B	.4104
<u>Policies and Procedures</u> Readopt without Changes*	10A	NCAC	13B	.4106
<u>Organization of Neonatal Services</u> Readopt without Changes*	10A	NCAC	13B	.4305
<u>Surgical and Anesthesia Staff</u> Readopt without Changes*	10A	NCAC	13B	.4603
<u>Organization</u> Readopt without Changes*	10A	NCAC	13B	.4801
<u>Safety</u> Readopt without Changes*	10A	NCAC	13B	.4805
<u>Policy and Procedures</u> Readopt without Changes*	10A	NCAC	13B	.5102
<u>Sterile Supply Services</u> Readopt without Changes*	10A	NCAC	13B	.5105
<u>Discharge Criteria for Inpatient Rehabilitation Facilitie...</u> Readopt without Changes*	10A	NCAC	13B	.5406
<u>Comprehensive Inpatient Rehabilitation Program Staffing R...</u> Readopt with Changes*	10A	NCAC	13B	.5408
<u>Physical Facility Requirements/Inpatient Rehabilitation F...</u> Readopt/Repeal*	10A	NCAC	13B	.5411

## **CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

The rules in Subchapter 9G are the standards for correction including scope, applicability and definitions (.0100); minimum standards for certification of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0200); certification of correctional officers, probation/parole officers, probation/parole officers intermediate and instructors (.0300); minimum standards for training of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0400); enforcement of rules (.0500); professional certification program (.0600); and forms (.0700).

<u>Physical and Mental Standards</u> Amend*	12	NCAC	09G	.0205
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## **PRIVATE PROTECTIVE SERVICES BOARD**

The rules in Chapter 16 are from the Private Protective Services Board and cover organization and general provisions (.0100); licenses and trainee permits (.0200); security guard patrol and guard dog service (.0300); private investigator: electronic countermeasures (.0400); polygraph (.0500); psychological stress evaluator (PSE) (.0600); unarmed security

guard registration (.0700); armed security guard firearm registration permit (.0800); trainer certificate (.0900); recovery fund (.1000); training and supervision for private investigator associates (.1100); continuing education (.1300); and armed armored car service guards firearm registration permit (.1400).

<u>Application for Licenses and Trainee Permits</u> Amend*	14B	NCAC	16	.0201
<u>Renewal or Re-issue of Licenses and Trainee Permits</u> Amend*	14B	NCAC	16	.0203
<u>Reports</u> Amend*	14B	NCAC	16	.0404
<u>Renewal of Unarmed Security Guard Registration</u> Amend*	14B	NCAC	16	.0706
<u>Renewal of Armed Security Guard Firearm Registration Permit</u> Amend*	14B	NCAC	16	.0806
<u>Renewal of a Firearms Trainer Certificate</u> Amend*	14B	NCAC	16	.0904
<u>Renewal of an Unarmed Trainer Certificate</u> Amend*	14B	NCAC	16	.0911
<u>Renewal or Reissue of Unarmed Car Service Guard Registration</u> Amend*	14B	NCAC	16	.1306
<u>Renewal of Armed Armored Car Service Guard Firearm Regist...</u> Amend*	14B	NCAC	16	.1406

## ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2Q are from the EMC and relate to applying for and obtaining air quality permits and include general information (.0100); fees (.0200); application requirements (.0300); acid rain program requirements (.0400); establishment of an air quality permitting program (.0500); transportation facility requirements (.0600); toxic air pollutant procedures (.0700); exempt categories (.0800); and permit exemptions (.0900).

<u>Definitions</u> Amend*	15A	NCAC	02Q	.0103
<u>Definitions</u> Amend*	15A	NCAC	02Q	.0503
<u>Option for Obtaining Construction and Operation Permit</u> Amend*	15A	NCAC	02Q	.0504
<u>Application Submittal Content</u> Amend*	15A	NCAC	02Q	.0505
<u>Application</u> Amend*	15A	NCAC	02Q	.0507
<u>Permit Content</u> Amend*	15A	NCAC	02Q	.0508
<u>Permitting of Numerous Similar Facilities</u> Amend*	15A	NCAC	02Q	.0509
<u>Administrative Permit Amendments</u> Amend*	15A	NCAC	02Q	.0514
<u>Significant Permit Modification</u> Amend*	15A	NCAC	02Q	.0516
<u>Final Action</u> Amend*	15A	NCAC	02Q	.0518
<u>Public Participation</u> Amend*	15A	NCAC	02Q	.0521
<u>Review by EPA and Affected States</u>	15A	NCAC	02Q	.0522

Amend\*

<u>Application Processing Schedule</u>	15A	NCAC	02Q	.0525
Amend*				
<u>112(J) Case-By-Case MACT Procedures</u>	15A	NCAC	02Q	.0526
Amend*				

## COASTAL RESOURCES COMMISSION

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); general permit to construct boat ramps along estuarine and public trust shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); general permit to allow for temporary structures within the estuarine and ocean AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); emergency general permit, to be initiated at the discretion of the Secretary of the Department of Environment and Natural Resources for replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms, provided all replacement, reconstruction and maintenance excavation activities conform to all current standards (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

<u>Application of Erosion Rate Setback Factors</u>	15A	NCAC	07H	.0104
Repeal*				
<u>Use Standards</u>	15A	NCAC	07H	.0208
Amend*				
<u>AECs Within Ocean Hazard Areas</u>	15A	NCAC	07H	.0304
Amend*				
<u>Definition and Description of Landforms</u>	15A	NCAC	07H	.0305
Amend*				
<u>General Use Standards for Ocean Hazard Areas</u>	15A	NCAC	07H	.0306
Amend*				
<u>Specific Use Standards for Ocean Hazard Areas</u>	15A	NCAC	07H	.0308
Amend*				
<u>Use Standards for Ocean Hazard Areas: Exceptions</u>	15A	NCAC	07H	.0309
Amend*				
<u>Use Standards for Inlet Hazard Areas</u>	15A	NCAC	07H	.0310
Amend*				
<u>Specific Conditions</u>	15A	NCAC	07H	.1205
Amend*				
<u>Purpose</u>	15A	NCAC	07H	.1801
Amend*				

The rules in Subchapter 7J concern procedures for handling major development permits, variance requests, appeals from minor development permit decisions and declaratory rulings. They include definitions (.0100); permit application

and procedures (.0200); hearing procedures (.0300); final approval and enforcement (.0400); general permits (.0500); declaratory rulings and petitions for rulemaking (.0600); procedures for considering variance petitions (.0700); general permit procedure (.1100); beach management plan approval procedures (.1200); and development line procedures (.1300).

<u>Development Period/Commencement/Continuation</u> Amend*	15A	NCAC	07J	.0403
<u>Development Period Extension</u> Amend*	15A	NCAC	07J	.0404
<u>Beach Management Plan Approval</u> Amend*	15A	NCAC	07J	.1201
<u>Review of the Beach Management Plan Approval Request</u> Amend*	15A	NCAC	07J	.1202
<u>Procedure for Approving a Beach Management Plan</u> Amend*	15A	NCAC	07J	.1203
<u>Review of Beach Management Plans</u> Amend*	15A	NCAC	07J	.1204
<u>Revocation and Expiration of Beach Management Plan Approval</u> Amend*	15A	NCAC	07J	.1205
<u>Local Governments and Communities with Approved Beach Man...</u> Amend*	15A	NCAC	07J	.1206
<u>Requesting the Development Line</u> Repeal*	15A	NCAC	07J	.1301
<u>Procedures for Approving the Development Line</u> Repeal*	15A	NCAC	07J	.1302
<u>Local Governments and Communities with Development Lines</u> Repeal*	15A	NCAC	07J	.1303

The rules in Subchapter 7K set out activities in areas of environmental concern (AECs) which do not require a Coastal Area Management Act (CAMA) permit. These include activities that are not considered development (.0100); exempt minor maintenance and improvement (.0200); and exempt federal agency activities (.0400).

<u>Single Family Residences Exempted</u> Amend*	15A	NCAC	07K	.0208
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The rules in Subchapter 7M concern general policy guidelines for the coastal area including purpose and authority (.0100); shoreline erosion response policies (.0200); shorefront access policies (.0300); coastal energy policies (.0400); post-disaster policies (.0500); floating structure policies (.0600); mitigation policy (.0700); coastal water quality policies (.0800); policies on use of coastal airspace (.0900); policies on water and wetland based target areas for military training activities (.1000); policies on beneficial use and availability of materials resulting from the excavation or maintenance of navigational channels (.1100); and policies on ocean mining (.1200).

<u>Declaration of General Policy</u> Repeal*	15A	NCAC	07M	.0301
<u>Definitions</u> Amend*	15A	NCAC	07M	.0302
<u>Standards for Public Access</u> Repeal*	15A	NCAC	07M	.0303
<u>Local Government and State Involvement in Access</u> Repeal*	15A	NCAC	07M	.0306
<u>Public Beach and Coastal Waterfront Access Program</u> Amend*	15A	NCAC	07M	.0307
<u>Public Involvement/Notice</u> Repeal*	15A	NCAC	07M	.0308
<u>Standards for Public Access</u>	15A	NCAC	07M	.0310

Adopt\*

## **PUBLIC HEALTH, COMMISSION FOR**

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D).

The rules in Subchapter 18A deal with sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps (.3600); and private drinking water well sampling (.3800).

<u>Definitions</u>	15A	NCAC	18A	.2508
Amend*				
<u>Display Spa at a Temporary Event</u>	15A	NCAC	18A	.2545
Adopt*				
<u>Disbursement of Funds</u>	15A	NCAC	18A	.2901
Readopt with Changes*				

## **EDUCATION, STATE BOARD OF**

The rules in Subchapter 6D cover instruction including curriculum (.0100), textbooks (.0200), testing programs (.0300), and accountability standards and graduation requirements (.0500).

<u>Provide Information on Child Abuse and Neglect</u>	16	NCAC	06D	.0403
Adopt*				

## **CHIROPRACTIC EXAMINERS, BOARD OF**

The rules in Chapter 10 include organization of the Board (.0100); the practice of chiropractic (.0200); rules of unethical conduct (.0300); rule-making procedures (.0400); investigation of complaints (.0500); contested cases and hearings in contested cases (.0600-.0700); and miscellaneous provisions (.0800).

<u>Acupuncture</u>	21	NCAC	10	.0208
Amend*				
<u>Professional Entities</u>	21	NCAC	10	.0217
Adopt*				

## **DENTAL EXAMINERS, BOARD OF**

The rules in Chapter 16 cover the licensing of dentists and dental hygienists.

The rules in Subchapter 16C are dental hygienist licensure rules including general provisions (.0100); qualifications (.0200); application (.0300); Board conducted examinations (.0400); and licensure by credentials (.0500).

<u>Licensure</u>	21	NCAC	16C	.0101
Amend*				

The rules in Subchapter 16F concern professional corporations.



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**RULES REVIEW COMMISSION**

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<u>Application Certification of Licensure</u> Amend*	21	NCAC	16F	.0102
<u>Certificate of Registration</u> Amend*	21	NCAC	16F	.0104
<u>Application for Renewal or Reinstatement</u> Amend*	21	NCAC	16F	.0105
<u>Amendments to Articles of Incorporation or Organization, ...</u> Amend*	21	NCAC	16F	.0107
<u>Corporate Officers or Managers Shall Execute Documents</u> Amend*	21	NCAC	16F	.0110

The rules in Subchapter 16G concern dental hygienists.

<u>Procedures Prohibited</u> Amend*	21	NCAC	16G	.0103
<u>Dental Hygienist Certification to Administer Local Anesth...</u> Adopt*	21	NCAC	16G	.0109

The rules in Subchapter 16I concern the annual renewal of the dental hygienist license.

<u>Approved Courses and Sponsors</u> Amend*	21	NCAC	16I	.0202
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The rules in Subchapter 16Q concern general anesthesia and sedation including definitions (.0100); general anesthesia (.0200); parenteral conscious sedation (.0300); enteral conscious sedation (.0400); renewal of permits (.0500); reporting and penalties (.0600); and penalty for non-compliance (.0700).

<u>Inspection Authorized</u> Amend*	21	NCAC	16Q	.0704
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The rules in Subchapter 16R concern continuing education requirements of dentists (.0100 and .0200).

<u>Approved Courses and Sponsors</u> Amend*	21	NCAC	16R	.0202
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The rules in Subchapter 16V concern unprofessional conduct.

<u>Definition: Unprofessional Conduct by a Dentist</u> Amend*	21	NCAC	16V	.0101
<u>Definition: Unprofessional Conduct by a Dental Hygienist</u> Amend*	21	NCAC	16V	.0102

The rules in Subchapter 16Z concern limited supervision of dental hygienists.

<u>Eligibility to Practice Hygiene Outside Direct Supervision</u> Amend*	21	NCAC	16Z	.0101
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## **MEDICAL BOARD**

The rules in Subchapter 32A concern organization of the Board.

<u>Disposition of Request</u> Amend*	21	NCAC	32A	.0112
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The rules in Subchapter 32U cover the administration of vaccinations and long-acting injectables.

<u>Administration of Vaccines by Pharmacists</u> Amend*	21	NCAC	32U	.0101
<u>Administration of Long-Acting Injectables</u>	21	NCAC	32U	.0102

Adopt\*

**PHARMACY, BOARD OF**

The rules in Chapter 46 cover organization of the board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections (.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); compounding (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

<u>Code of Ethics</u> Adopt*	21	NCAC	46	.1820
<u>Administration of Vaccines by Pharmacists</u> Amend*	21	NCAC	46	.2507
<u>Administration of Long-Acting Injectables</u> Adopt*	21	NCAC	46	.2514

**CLINICAL MENTAL HEALTH COUNSELORS, BOARD OF LICENSED**

The rules in Chapter 53 are from the Board of Licensed Professional Counselors and include general information (.0100); definitions and clarification of terms (.0200); how to obtain licensure (.0300); disciplinary procedures (.0400); fees (.0500); renewal of license (.0600); rules specific to licensed professional counselor associates (.0700); licensed professional counselor supervisors (.0800); and registration for a professional entity (.0900).

<u>Professional Disclosure Statement Requirements for LCMHCA...</u> Amend*	21	NCAC	53	.0204
<u>Counseling Experience</u> Amend*	21	NCAC	53	.0205
<u>Receipt of Application</u> Amend*	21	NCAC	53	.0308
<u>Renewal Period</u> Amend*	21	NCAC	53	.0601
<u>Renewal for Licensure Form; Address Change; Name Change</u> Amend*	21	NCAC	53	.0602
<u>Failure to Secure Sufficient Continuing Education/Renewal...</u> Amend*	21	NCAC	53	.0604
<u>Renewal of Certificate of Registration for a Professional...</u> Amend*	21	NCAC	53	.0902

**APPRAISAL BOARD**

The rules in Subchapter 57A cover licensing, certification and practice rules for appraisers including application procedures (.0100); licensing and certification (.0200); examination (.0300); general practice requirements (.0400); appraisal standards (.0500); and experience credit (.0600).

<u>Qualifications for Trainee Registration and Appraiser Lic...</u> Amend*	21	NCAC	57A	.0201
<u>Registration, License and Certificate Renewal</u> Amend*	21	NCAC	57A	.0203
<u>Continuing Education</u> Amend*	21	NCAC	57A	.0204
<u>Expired Registration, License or Certificate</u>	21	NCAC	57A	.0206

Amend*				
<u>Replacement Registration, License and Certificate Fees</u>	21	NCAC	57A	.0208
Amend*				
<u>National Appraiser Registry</u>	21	NCAC	57A	.0209
Amend*				
<u>Temporary Practice</u>	21	NCAC	57A	.0210
Amend*				
<u>Display of Registration, Licenses and Certificates</u>	21	NCAC	57A	.0402
Amend*				
<u>Change of Name or Address</u>	21	NCAC	57A	.0404
Amend*				
<u>Appraisal Reports</u>	21	NCAC	57A	.0405
Amend*				
<u>Supervision of Trainees</u>	21	NCAC	57A	.0407
Amend*				
<u>Appraisal Standards</u>	21	NCAC	57A	.0501
Amend*				
<u>Experience Credit to Upgrade</u>	21	NCAC	57A	.0601
Amend*				
<u>Types of Appraisal Experience</u>	21	NCAC	57A	.0604
Amend*				
<u>Reporting Appraisal Experience</u>	21	NCAC	57A	.0605
Amend*				

The rules in Subchapter 57B cover real estate appraisal education including the courses required for licensure or certification (.0100); course sponsor standards for pre-licensing or pre-certification courses (.0200); pre-licensing and pre-certification course standards (.0300); course sponsor fees (.0400); fees for private real estate appraisal education schools (.0500); and continuing education course standards (.0600).

<u>Registered Trainee Course Requirements</u>	21	NCAC	57B	.0101
Amend*				
<u>Course Records</u>	21	NCAC	57B	.0210
Amend*				
<u>Course Completion Standards</u>	21	NCAC	57B	.0303
Amend*				
<u>Course Scheduling</u>	21	NCAC	57B	.0304
Amend*				
<u>Criteria for Course Recognition</u>	21	NCAC	57B	.0307
Amend*				
<u>Original Course Approval Fee</u>	21	NCAC	57B	.0402
Amend*				
<u>Application and Fee</u>	21	NCAC	57B	.0602
Amend*				
<u>Criteria for Course Approval</u>	21	NCAC	57B	.0603
Amend*				
<u>Continuing Education Credit Hours</u>	21	NCAC	57B	.0605
Amend*				
<u>Course Operational Requirements</u>	21	NCAC	57B	.0606
Amend*				
<u>Sponsor Reporting of Continuing Education Credit</u>	21	NCAC	57B	.0608
Amend*				
<u>Changes During the Approval Period</u>	21	NCAC	57B	.0609
Amend*				

<u>Instructors for the Trainee/Supervisor Course Required by...</u>	21	NCAC	57B	.0614
Amend*				

The rules in Subchapter 57D concern appraisal management companies including application for appraisal management registration (.0100); appraisal management company registration (.0200); appraisal management company procedures (.0300); and appraisal management company general practices (.0400).

<u>Registration Renewal</u>	21	NCAC	57D	.0202
Amend*				

### **ADDICTIONS SPECIALIST PROFESSIONAL PRACTICE BOARD**

The rules in Chapter 68 include general provisions (.0100); certification (.0200); clinical addictions specialist (.0300); education (.0400); ethical principles of conduct (.0500); grounds for discipline and disciplinary procedures (.0600); and appeals process (.0700).

<u>Definitions</u>	21	NCAC	68	.0101
Amend*				
<u>Designation as Alcohol and Drug Counselor Intern</u>	21	NCAC	68	.0203
Amend*				
<u>Supervised Practicum for Certified Alcohol and Drug Couns...</u>	21	NCAC	68	.0204
Amend*				
<u>Certified Alcohol and Drug Counselor Certification</u>	21	NCAC	68	.0205
Amend*				
<u>Process for Prevention Specialist Certification</u>	21	NCAC	68	.0206
Amend*				
<u>Renewal Requirements for Counselor, Criminal Justice Addi...</u>	21	NCAC	68	.0208
Amend*				
<u>Process for Residential Facility Director Certification</u>	21	NCAC	68	.0212
Repeal*				
<u>Licensure Requirements for Initial Applicants for Licensu...</u>	21	NCAC	68	.0305
Amend*				
<u>Renewal of Licensed Clinical Addictions Specialist</u>	21	NCAC	68	.0306
Amend*				